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THE NEW REPUBLIC

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The case for vivisection,
by Timothy Noah



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FROM WASHINGTON

INTEGRITY PROBE

They've replaced the tulips with hyacinths in Washington's parks, and the long, steaming political summer lies ahead. Many circumstances, at home and abroad, make it startling. Will there be outright war in the Falklands? What kind of reception will amiable Ronald Reagan have in his busy nine-day visit to Europe? Will unemployment reach double digits while he's gone? It's already up to 9.4 percent. Will we maintain a nuclear arms negotiating posture with Russia in the days ahead? Sighs of relief went up from all over the world when the President finally broke his silence and embraced the peace issue in Eureka, Illinois. Some feared he would never do it. Ten days earlier he ended a budget pep-talk to the nation, urging, "Make your voice heard! Let your representatives know [that] you stand behind our recovery program." The response was a flop. There was very little added traffic on the telegraph lines, and members of Congress drew their own conclusions. The dull response may not have precipitated the big shift in Reagan's emphasis to nuclear negotiation, but it was certainly high time for him to do something.

At Larry Speakes's White House briefing the other day I chatted with a nice young undergraduate intern working for the Hearst papers, and got to thinking about it. It is not a very inspiring time to start work here. Count the occasions. Last winter budget director David Stockman confided that the President's economic program was just the old "trickle-down" theory, and that he knew it wasn't working even as he was telling Congress the opposite. Then there was Seymour Hersh's study of

Kissinger and Nixon in the May issue of the *Atlantic Monthly*, which showed Haig avidly authorizing wire-tapping of subordinates while he was working up through the tawdry Nixon hierarchy in the White House. Now there is Attorney General William French Smith involved in \$175,000 of "legal" tax shelters in questionable procedures that do not involve personal integrity so much as propriety and good taste at the seat of government. And here is another example, an item on the UPI news ticker just as I write this, about Labor Secretary Raymond Donovan's former company which reportedly has hired "private investigators" who will "check members of Congress to find out who is accusing the firm of having links to organized crime." Ho-hum. Donovan's past record in the turbulent New Jersey labor field is now being explored from several directions. This column certainly won't impute dishonesty, but it is a murky kind of atmosphere here, where Secretary Donovan's defenders promise to examine members of Congress "to determine what, if any, bargains have been made in exchange for allegations."

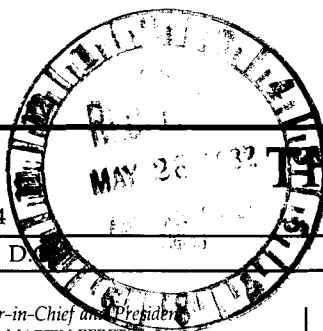
President Reagan has not yet really imposed his personality on his government conclusively enough that we think of it as "the Reagan Administration." It resembles an aggregation of separate instrumentalities over which the President presides as affable chairman of the board. This has ramifications in many agencies, and one wonders what future historians will make of it. Here, for instance, is a front-page story in the May 18 *Wall Street Journal*, declaring that "at least 15 of the nation's top defense officials have had to undergo variations" of a "lie-detector test in recent weeks." Seems the Pentagon had two sets of estimates of what the arms build-up would cost, and the second, confidential, set appeared punctually in the *Washington Post*. Secrets certainly ought to be preserved in Washington. It is the most open capital in the world, and as a journalist I can sympathize with either side: a lot of skulduggery is certainly exposed, but on the other hand, war secrets and military estimates should be safe. Nixon and Kissinger handled the problem by tapping the wires of subordinates and newspapermen, with the aid of the FBI, in an atmosphere of Byzantine stealth, lying, and jealousy. Now the technique seems to be to make exalted leaders in the Pentagon undergo "voluntary" exami-

nation on the couch. The ignoble harshness that registers blood pressure is put on, while other sensors connect to the fingertips to detect excessive perspiration while the subject is grilled. The integrity probe has included the chairman of the Joint Chiefs of Staff, according to a *Wall Street Journal* reporter, John Fialka, as they search out by polygraph who is guilty of the \$750-billion leak. Incidentally, what does a rear admiral look like while his veracity is being polygraphed?

The factor that adds to the pall over Washington in this queer summer of 1982, however, is economic. It compounds the problems of the Falklands, of the nuclear bomb, of anxiety over who will succeed Brezhnev in Russia. It makes unmanageable the incoherence in Congress. Lester Thurow put it succinctly on CBS-TV last week, right after the collapse of Braniff Airlines. Before the Great Crash of 1929, he noted casually, the gross national product had been falling for three years. It has been falling now for three years. In 1929 banks were collapsing. This year five hundred savings and loan associations will succumb. In 1929 there was a farm depression. Now again farm income has sunk 45 percent in two years. "And you can go on and on," he added.

Thurow didn't want to scare people, and he noted some favorable factors: if a bank collapses today you don't lose your savings, and today at least half the public gets unemployment insurance. The government feels its responsibility, too, instead of adopting Andrew Mellon's hands-off attitude.

But Thurow, like the vast majority of the liberal and middle-of-the-road economic community, doesn't think the Reagan formula is working. There has been a drop in inflation. He attributes it to falling oil prices and the recession, which has forced down housing, cars, and furnishings. Yes, there may be an upsurge after July, he hopes, when the scheduled \$33-billion tax cut takes effect and Social Security transfers automatically increase. After that? The U.S. is financing the military build-up by borrowing, not by taxing, just as Lyndon Johnson vainly tried to finance the Great Society and the Vietnam War at the same time. It didn't work then. Factories today have 30 percent idle capacity, and Reagan isn't attending to high interest rates. "The current mix of policies, I think," says Thurow, "is just plain wrong."



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CORRESPONDENCE

ABOLISH CITIZEN LEGISLATORS

To the editors:

As a retired (by choice) Maine legislator, I found Timothy Noah's "Rocky Mountain Breakdown" (TNR, May 12) stimulating and irritating. Of course, the new federalism is just a barefaced attempt to shove some federal expenses back on the states so the Reagan Administration will have more goodies to distribute to the rich. In addition, because state legislatures are more likely than Congress to be the playthings of the special interests, the new federalism will be a further boon to the rich and powerful, since more issues will be decided at the state level. Have we forgotten that federalism (states' rights) has ever been the rallying cry of those opposed to humanitarian legislation—child labor laws, women's suffrage, the Wagner Labor Relations Act, and the abolition of slavery?

What's wrong with having full-time, professional state legislators? Would you go to a part-time lawyer, or a part-time doctor for anything important? Legislation has become so complicated nowadays that we need full-time practitioners. And legislators should be well-paid, so that working people can afford to serve in our state legislatures. As it is now, they are stacked with lawyers, who are more able to combine their legal work with public work, and with people of independent means, who don't have to depend on their legislative salaries to support their families. No, let's not get sentimental about "citizen legislators." All too often those people are either incompetents, tools of the various lobbies, or the independently wealthy with a keen sense of class interest.

DAVID L. GRAHAM
Freeport, Maine

HISTORY LESSON

To the editors:

I could only admire Edmund Morgan's lucid and balanced analysis of the arguments of the Antifederalists ("The Argument for the States," TNR, April 28). At the end, though, I think he was unfair to James Madison's understanding of the implications of the federal system he had done so much to bring into being.

Morgan wrote in his review that it was just as well that Madison had not achieved the national veto over state laws that he had once wanted, because "by 1798 he was trying for a state veto over national legislation." Presumably by "a state veto" Morgan is referring to the Virginia Resolutions of that year, which Madison wrote in opposition to the Alien and Sedition Acts. If so, then I think he is in error. If by "veto" Morgan means "nullify," then I think he may be confusing Madison with Jefferson, who did use the word in private correspondence and in his second Kentucky Resolution. Madison never used the word in connection with the Alien and Sedition Acts controversy. In fact, he even cautioned Jefferson against its use. (Neither of the Virginians, of course, used "veto" in this context.)

Moreover, as Madison pointed out later, and as is evident from the text of the Virginia Resolutions, he did not contend that a single state could veto or otherwise extinguish a law passed by Congress. When Madison protested the Alien and Sedition laws, he spoke of the states—in the plural always—as having the power to declare them unconstitutional. This distinction, of course, was to be important later, during the constitutional crisis of 1832, when South Carolina alone declared an act of Congress unconstitutional and therefore without legal force. It was then that Madison, who was still alive and opposed to nullification, could be glad that he had never gone along with Jefferson's introducing of the fateful word "nullify" and his ascribing the veto power to a single state.

CARL N. DEGLER
Stanford University
Stanford, California

TODDLIN' TOWN

To the editors:

Shame on you for printing something as half-baked and inaccurate as John Podhoretz's Chicago Diarist ("The Deep Tunnel," TNR, May 12).

To describe Mike Bilandic as smooth, handsome, and more in the image of Mayor Lindsay than Mayor Daley is merely ludicrous; but to say that the Democratic organization went out and selected Jane Byrne to succeed Bilandic is downright ignorant. The machine

stuck fast with Bilandic through the 1979 primary; it was Byrne, virtually single-handedly, who took on and vanquished the party hacks. Once in office, she let them join her, but that is another story.

Further, Richie Daley is state's attorney for Cook County, not attorney general, as Podhoretz states. The last man elected to *that* office is now serving time in a federal prison.

THE NEW REPUBLIC really can't afford stuff like this. It sets me to wondering whether your other articles, on subjects of which I have no direct knowledge, may be equally erroneous.

MINNIE WARTELL
Evanston, Illinois

EL SALVADOR DIALOGUE

To the editors:

What a pity. Just when I thought we were coming to "the nub of the disagreement," Irving Howe (Correspondence, TNR, April 28) cops out and misstates the argument of his opponents, and thus the dialogue concerning the wisest course to pursue should El Salvador falter.

In a TNR editorial ("Elections Count," April 14), Howe and several others are criticized for supporting a proposal to end American aid to El Salvador. This is as one would expect: TNR has repeatedly supported (with some reservations) existing American policy. On the whole this editorial position has seemed a reasonable approach to the defense of democratic values and the interests of the people of El Salvador. Thus, when a democrat as distinguished as Irving Howe lends public support to a very different course of action it gives one pause—what could his perception of the errors of TNR's argument be?

"The only hope, a slim one," Howe writes, "for a decent, democratic solution is through negotiations. . . . But—and here comes the nub of our disagreement—for the U.S. to commit itself unconditionally to the junta in El Salvador" is to destroy any chance for such a solution. As I read it, TNR never advocated *unconditional* support for Duarte; it has consistently affirmed that American aid be continued only if the government maintains its commitment to land reform and to curbing the terrorism of the army and police.

GLENN DIAMOND
Fairfax, California



THE NEW REPUBLIC

JUNE 2, 1982

A BETTER BUDGET

The Reagan Administration is promising that recovery from the current recession is all but in the bag, that Reagan policies already have crushed inflation and now are just about ready to lift the economy out of its slump and restore general prosperity. Just in case things don't work out that way, though, the Republican National Committee and the National Republican Congressional Committee have sunk \$1.7 million into an election year TV campaign designed to fix blame for the country's economic chaos on Tip O'Neill, Jimmy Carter, and the rest of the Democratic Party.

It's true that past Democratic policies did contribute to the deficits, inflation, high interest rates, lagging productivity, and sluggish growth which plague the economy. But it's also true that the Reagan Administration, in attempting to reverse government economic policy overnight, has made the recession deeper than it needed to be, has caused needless pain for the recession's victims, and has made it likely that whatever recovery occurs this year will be weak and short-lived. The most important fact for the American electorate to know, however, is that the Democratic Party in general understands where it went wrong, while the Reagan Administration admits no error and vows to persist on its course regardless of the consequences.

In the 1960s and 1970s, Democrats forgot the rules of Keynesian economics, which maintain that the government should go into deficit during hard times to lessen the suffering and stimulate recovery, but should show a surplus during prosperous years to pay the piper and restrain inflation. Lyndon Johnson in particular thought that wars could be fought, taxes held down, and social spending expanded—all at the same time. It was part of the Democratic religion that government deficits and inflation were merely Republican bogeymen invented to scare the citizenry out of supporting socially progressive programs. Democrats

now know better. It is they who now represent fiscal responsibility and budgetary sanity in Washington, and it is the Republicans—with President Reagan in the lead—who represent economic adventurism and budgetary recklessness.

And among the Democrats, it is actually a group of liberals which has presented the soundest budget and tax proposals of all. Headed by Representatives David Obey and Henry Reuss of Wisconsin and Morris Udall of Arizona, and joined by Les Aspin of Wisconsin, Paul Simon of Illinois, Stephen Solarz of New York, and Michael Lowry of Washington, the group has proposed a plan for balancing the budget in fiscal 1985 (when Republican and Democratic alternatives would still be in deficit by more than \$30 billion). The plan also shows that liberal Democrats have America's priorities in order. They would increase defense spending from pre-Reagan levels, cut taxes, trim expenditures, and still take steps to ease suffering during recession, expand funding for infrastructure improvements, and help build the nation's human capital.

The key difference, and a healthy one for the country, is that the liberals want to accomplish their objectives moderately, over a period of years, rather than wrenchingly and precipitously, as LBJ once tried and Mr. Reagan is trying again. The original Reagan budget called for tax cuts during fiscal 1983 of nearly \$100 billion. Mr. Reagan has agreed with Senate Republicans on a mild retreat, to \$92 billion. The House Budget Committee, representing the views of the Democratic leadership, calls for cuts of \$62 billion, and the liberals recommend \$56 billion. Over three years, the President wants to cut taxes by \$442 billion. The House Budget Committee has recommended cuts of \$294 billion. The liberals call for \$211 billion. More important, however, the liberal plan calls for a different kind of tax cut from the shower-the-rich Reagan plan adopted

and even outdone by Congress last year. The liberals want true across-the-board tax cuts, benefiting moderate-income people as well as the wealthy and corporations.

On the expenditure side, the liberals are calling for defense increases of 7 percent above pre-Reagan levels, but considerably less than the huge, indigestible increases called for by the President. Mr. Reagan's budget calls for defense outlays of \$221 billion next year, \$253 billion in 1984, and \$292 billion in 1985. The Senate Budget Committee would pare those amounts back by \$5 billion, \$7 billion, and \$10 billion. The House leadership wants somewhat deeper cuts of \$9 billion, \$16 billion, and \$23 billion. The liberal alternative calls for cutbacks of \$12 billion, \$24 billion, and \$35 billion from the Reagan levels.

The liberal plan also calls for cutbacks in entitlement programs—but smaller cuts than those called for by the President and Senate Republicans. And, of course, the liberals (like both Republicans and Democrats in the House) do not want to reduce Social Security benefits in an election year. In the name of equity, we believe that Social Security recipients—who tend overwhelmingly to be middle class—should accept moderate cutbacks in their benefits along with other sectors of society. For example, Lester Thurow of MIT has suggested that Social Security benefits be indexed to per capita GNP, rather than to the consumer price index. But the Social Security issue is so emotionally charged that it's probably impossible to touch it in an election year. Because the system *must* be reformed eventually, though, and because it will take bipartisan consensus to reform it, we urge the Democratic Party to resist the temptation to make Social Security the hot political issue of 1982. There are plenty of others, including the Reagan recession (caused by the tight-money policies of both the Administration and the Federal Reserve), the phony promises of supply-side economics, and the unfairness of making ordinary people suffer so that the wealthy can bask in benefits.

AND THE Democrats can offer forward-looking alternatives too, such as those contained in the liberals' alternative budget. In order to pay for his defense hikes and tax cuts, President Reagan is wreaking havoc in civilian social spending, including job training, urban improvements, and education. The Democrats on the House Budget Committee favor freezing such programs at existing levels. However, the liberals have found a way to balance the budget and modestly increase social spending, by some \$20 billion over three years, in three key areas of need: jobs for teenagers and adults whose unemployment benefits have run out; bridge, road, sewage treatment, and other infrastructure improvements; and education, especially science education, and aid for school systems, which improves pupil performance.

In 1981 it might have been possible for Ronald

Reagan to form and hold a national consensus around a program to rebuild American industry and defense. But his program has proved so excessive and so unfair as to endanger not only any chance of a consensus, but possibly even the country's social harmony. It's encouraging that the Democratic Party is devising alternatives to Reagan recklessness—programs that the President can adapt, if he comes to his senses, or that can provide a platform for winning elections to come. The House liberals have presented their colleagues with an alternative that Democrats can be proud of.

NOTEBOOK

□ THERE'S ROOM FOR DISAGREEMENT about the meaning of El Salvador's election a couple of months ago, but the meaning of last week's voting in the Dominican Republic was beyond dispute. It was the freest election in Dominican history—an unequivocal victory for democracy in a country which, a generation ago under Rafael Trujillo, was the very model of brutal dictatorship. (The new president of the social democratic Dominican Revolutionary Party, Salvador Jorge Blanco, is a man of enlightened views.) The election was also, in a small way, a victory for the much-maligned Jimmy Carter: four years ago, the rightist party then in power in Santo Domingo seized the ballot boxes and showed every sign of getting ready to rig the tally. After Mr. Carter made his displeasure clear, the counting went ahead, and the result was the first peaceful, democratic transfer of power in Dominican history. Without that noise from the north there wouldn't have been an election at all last week. Intervention, if that's what it was, is not always a bad thing.

□ IN ONE OF HIS FIVE-MINUTE radio speeches, President Reagan recently made a disparaging comment about "big money operators using tax shelters." He talked about the patriotic duty of paying taxes and then said, "If I could paraphrase a line from a well-known poem, 'Breathes there a man with soul so dead who never to himself has said: I owe it to my country and my fellow citizens to quit being a freeloader.' " If Attorney General William French Smith was listening on that Saturday afternoon, he probably blushed. A couple of weeks later, Bob Woodward of the *Washington Post* disclosed that Mr. Smith had invested \$60,000 in energy tax shelters in 1980 and 1981 that will yield him at least \$175,000 in tax deductions over three years. Mr. Smith, perhaps the archetypal Reagan Cabinet member, is sending us a message here: only suckers pay taxes.

□ FIFTY YEARS AGO IN THE NEW REPUBLIC: "There can be few unhappier spots on the face of the globe than Liberia, the Negro republic on the west coast of Africa,

which was first established, a century ago, as a refuge for former slaves from the United States. The Liberian government consists of a little handful of American Negroes, who rule the native population in the back country with the same cruelty and injustice which are practised by the white Europeans in other parts of Africa. The situation has repeatedly been brought to the attention of the League of Nations, but thus far, no improvement has been made." ("The Week," June 1, 1932.)

Terrorism does not avenge a tragic past.

ARMENIANS AND TURKS

There is a legitimate and searing Armenian grievance against Turkey. But that in no way mitigates the horror of the international terror campaign against Turkish diplomats which again extended itself to American soil last month. The latest victim was Orhan R. Gunduz, the proprietor of Topkapi Imported Gifts, a small, cluttered shop in a less than affluent section of Cambridge, Massachusetts. Gunduz served as the Turkish "honorary consul" in Boston—an unpaid honorific post which required him to act as an organizer of cultural activities for the Turkish community in Boston but did not entitle or require him to make political statements on behalf of the Turkish government. He was gunned down in his car on his way home from work, just over a month after a pipe-bomb destroyed the front of his store. Police counted at least nine bullet holes in the windshield; Gunduz received "several shots to the head and the face."

Representatives of a group calling itself the "Justice Commandos for the Armenian Genocide" telephoned media outlets to claim responsibility for this cold-blooded murder. The "Justice Commandos" is one of several groups that have taken "credit" for recent attacks on Turkish officials. A larger organization, the Armenian Secret Army, based in Beirut and trained by the Palestinian Liberation Organization, is believed to be responsible for 136 terrorist incidents over the past seven years, including bombings and assassinations from Sydney to Los Angeles and the takeover of the Turkish consulate in Paris late last year.

The wrong inherent in terrorism and political assassination—compounded when the victim is a harmless innocent like Orhan Gunduz—is all the more egregious when the violence is very likely motivated by purposes wholly apart from the purported concerns of the terrorists. Armenians have good reason to protest that the 1915 massacre of their people in Turkey is a "Forgotten Genocide," as a recent study from the

Armenian community has termed it. It is a rarely noted matter of historical record that the Young Turk revolutionaries who led the Ottoman Empire during World War I sought to eradicate the Armenian population. The issues that dominate the historical debate are, in the last analysis, secondary. Was there an official directive from Constantinople ordering mass executions? Did more Armenians fall victim to disease and starvation, as a consequence of an organized deportation effort, than to actual murder? Were there indeed one-and-a-half-million Armenian victims—a figure many eminent historians seem to agree on—or considerably fewer, as others contend? What is not disputed is that a brutal massacre of enormous proportions, properly classified as an attempt at genocide, did take place.

Undoubtedly the nascent Armenian nationalist movement gave the Ottoman leaders cause for alarm, particularly in the context of world war. But to say that by political activism the Armenians brought their fate upon themselves is to blame the victims. The events of 1915 are a stain on modern Turkish history, and, by virtue of its silent acquiescence—a habit, alas—on that of the international community as a whole. The continuing refusal of the Turkish government even to acknowledge—as the Germans have done—that a crime occurred simply deepens the stain. Thus the comments of Sukru Elekdag, the Turkish Ambassador to Washington, on the occasion of Gunduz's funeral, to the effect that Armenian claims of genocide are a "gross misrepresentation," and that the massacre was, in fact, "a civil war within a global war" in which both "sides" were guilty of atrocities, are historically inaccurate and represent an attitude which Armenians, wherever they now live, justly find offensive.

STILL, DESPITE the terrorists' claim that they seek to avenge the events of 1915, this historical dispute is but a weak rationalization for contemporary political murder. The present wave of violence can be dated to 1973, although it only got under way in earnest some two years later. It appears likely that some of the terrorists are associated with elements from among the Greek Cypriot extremists whose 1974 attempt to effect *Enosis* (union with Greece) prompted the Turkish invasion. It is even more likely that the Armenian grievance has been exploited by the "terrorist international," for which the PLO provides the training, and Moscow often the direction. What indeed is the purpose of these attacks? Some of the terrorists profess to seek the establishment of an Armenian homeland. But only 60,000 Armenians now live in Turkey. Many more (about three million) inhabit the fictitiously autonomous Armenian Soviet Socialist Republic, which comprises a good part of the territory in which Armenians dwelled in Ottoman times. Needless to say, these terrorists have never targeted Soviet diplomatic outposts, nor have they called attention to Moscow's denial of genuine autonomy to the large

Armenian population in the U.S.S.R. In a serious movement for a degree of self-rule, the Soviet Union, not Turkey, would be a prime focus of political agitation. A continuing focus on Turkey is nonsensical, and cannot be explained solely as a quest for revenge. It is, in fact, a sign of profound disrespect for the memory of the martyred Armenians even to suggest that the wrongs done them is somehow righted by a few cowardly acts of terrorism. The assassins who struck down Talat Pasha in Berlin in 1921 were, at least, survivors of the atrocities, lashing out against a presumed oppressor in direct retribution. Their great-grandchildren should not expect any such sympathy for contemporary outrages. The goal of forcing Turkey to acknowledge the crimes of 1915 is hardly advanced by these deeds; on the contrary, it is more than obvious that incidents such as that in Boston will only strengthen the Turkish position in the eyes of a world repulsed by terrorism and unfamiliar with the tragic history of the Armenian people.

Contemporary Armenian terrorism is no more acceptable than any other kind, particularly in view of its dubious origins and doubtful political purpose. It is important to add, however, that the credibility of Turkey's claim to sympathy as a target of terrorism is seriously undermined by Ankara's willingness to play host to an office housing accredited representatives of the leading international terrorists, the PLO, comrades-in-arms of the Armenians now killing Turks.

ERIC BREINDEL

Eric Breindel is a student at Harvard Law School.

California's Proposition 8.

CRIME ON THE BALLOT

Sacramento

IN NOVEMBER 1978, some five months after California voters overwhelmingly approved Proposition 13, Howard Jarvis and Paul Gann, the state's two most famous tax cutters, had a celebrated falling out. Gann, said Jarvis on a television program, was pushing a new initiative to curtail state spending, and Jarvis didn't like it. The measure, Jarvis added when the microphones were turned off, was "shit." Getting into the spirit of the occasion, Gann replied that Jarvis was suffering from "diarrhea of the mouth."

Gann's measure, which limited increases in state spending to increases in the consumer price index, passed at the next election. But lately neither Jarvis nor Gann has been doing terribly well. Jarvis's initiative to

cut the state income tax in half ("Jarvis II") was soundly defeated by the voters in 1980. Gann's bid that year to replace Senator Alan Cranston was buried in a landslide. Cranston beat Gann by more than 1.6 million votes out of 7.7 million cast in an election in which Gann had trouble raising money even from sources normally generous to conservative Republicans.

Now, at 70, Gann is back again, this time in the role of crime fighter. His Proposition 8 ("The Victims' Bill of Rights") is likely to have an even bigger impact on California's criminal justice system than Proposition 13 had on the state's power to tax and spend. Equally important, if it is passed in the June 8 primary (as seems highly probable), the new initiative is almost certain to become a model for the right wing in every other U.S. jurisdiction where the courts are under attack for being "soft on crime."

PROPOSITION 8 is impossible to describe in a single phrase. Its full text is some 2,500 words long. It has little to do with the rights of the victims of crime, but so much to do with so many other matters that it probably represents the most sweeping change in American criminal justice procedures, and the broadest assault on due process and civil liberties, ever wrapped up in one package. It replaces California's right to bail, now protected under the state constitution, with a system of preventive detention requiring courts to lock up any criminal suspect they regard as a possible danger to public safety. It abolishes most of the state's code of evidence, including the exclusionary rule, to allow the admission at trial of all "relevant" evidence, even if derived from illegal wiretaps, burglaries, and rubber-hose interrogations. It sharply limits plea bargaining. It increases sentences for all repeat offenders which, in California, are already among the longest in the nation. It restores the standard for a not-guilty-by-reason-of-insanity plea to what, in one legislative analysis, is described as so legally and medically primitive that no other state has it.

The two major legal analyses of Proposition 8—one by the staff of the State Assembly's Criminal Justice Committee, the other by appellate attorneys in the Los Angeles District Attorney's Office—are almost uniformly negative. Both describe it, to use the shorthand of the *Los Angeles Daily Journal*, the state's leading legal newspaper, as "a conglomeration of proposals which are likely to be extraordinarily expensive, monumentally unsettling for the law, and ineffective in meeting its own goals." Both analyses emphasize that some of its provisions, particularly the one abolishing the exclusionary rule, probably violate the federal Constitution and are thus likely to produce wholesale reversals of convictions obtained under it; both point to the difficulty of obtaining convictions if the plea-bargained testimony of accomplices is no longer available; and both speak of the legal confusion and the "explosion of

litigation" likely to result from its ambiguous, sometimes contradictory provisions. "I can't believe," said John Kaplan, a professor of law at Stanford who teaches evidence and who is regarded as a legal conservative, "that the citizens of California would be so stupid as to pass this initiative. It'll give lawyers work for the next thirty years straightening it out."

THE SPONSORS of the measure—Gann, Lieutenant Governor Mike Curb, Attorney General George Deukmejian, and San Diego Mayor Pete Wilson, all Republicans and all except Gann candidates for governor or senator in the June primary—have not replied to the detailed legal commentaries other than to disparage the Assembly committee's analysis as the work of well-known liberals. But in California's current political climate they probably don't need to. As Curb put it, all that has to be said is that "for too long our courts and the professional politicians have demonstrated more concern with the rights of criminals than with the rights of innocent victims." Again and again the comparison is made with Proposition 13, as in this passage from the argument for Proposition 8 which California law requires to be printed on the ballot:

By voting yes on the Victims Bill of Rights you will restore balance to the rules governing the use of evidence against criminals, you will limit the ability of violent criminals to hide behind the insanity defense, and you will give us a tool to stop extremely dangerous offenders from being released on bail to commit more violent crimes. Your action is as vital and necessary today as it was in 1978 when I urged Californians to take property taxes into their own hands and pass Proposition 13.

California courts, particularly the state Supreme Court, have been under conservative attack since 1977, when Governor Jerry Brown appointed the liberal, and judicially inexperienced, Rose Bird as chief justice. Bird narrowly won reconfirmation at the polls in 1978, and a year later she survived an official public investigation into alleged judicial improprieties. But the attacks have gone on—based on a few well-publicized decisions in which the court ordered the retrial of patently guilty defendants because some of the evidence against them had been seized illegally, on the charge that the court is blocking the execution of the state's death penalty law, and on the general notion that the state's judges are soft on crime.

Yet Justice Department figures indicate that California is already imposing what appear to be the longest criminal sentences in the nation, and that the state's per capita prison population, among the nation's highest, is rising rapidly. On the same ballot with Proposition 8 is a measure authorizing a \$495-million bond issue to construct new facilities to relieve California's desperately overcrowded jails and prisons. State Department of Corrections figures suggest that if Proposition 8 passes, its stiffer sentences alone will increase

the cost of operating the state's prisons by between 10 and 40 percent, and will require at least \$438 million more in capital outlays for prisons. (The proponents of Gann argue that the number is "utterly ridiculous" because the initiative, through a sort of Laffer curve, will deter so much crime that no new prisons will be needed.) All this in a state which, in large part because of Proposition 13, is now in very bad fiscal shape.

The arguments against the initiative are necessarily detailed and technical, while the arguments in its favor—that the courts are soft on crime and that criminals commit new crimes while out on bail—are direct and emotional. Indeed, nearly all California politicians regard it as dangerous to oppose. One knowledgeable D.A. says that at least a third of his colleagues in the California District Attorneys Association oppose Proposition 8 and another third have serious doubts about it, but the group has endorsed it, and only two of its members have been willing to declare their opposition in public. More importantly, no major Democratic politician, not even Jerry Brown, has come out against it. Conservative Republicans thus control what at the moment is the state's prime issue, despite the fact that on most national issues—particularly the economy—Republicans are in serious trouble.

PERHAPS THE most vexing element of Proposition 8, and ultimately the most dangerous, is the impact it would have on the California Supreme Court. Given the enormous number of legal questions the measure raises, and the fact that the California constitution specifically prohibits initiatives that deal with more than one subject (a prohibition that Gann appears to violate), it's almost certain that the court will either have to throw out parts of it, or will have to throw it out altogether.

If Proposition 8 should pass with a large majority, and if the court declares it unconstitutional, there will be no restraining the attacks on Bird and her colleagues. There is already a new move to recall Bird, a move that's likely to succeed if the court "thwarts the will of the people." On the other hand, if the court stays away from it, the whole criminal justice system is likely to be thrown into chaos. During the few days that the state Supreme Court temporarily kept Gann from going on the June ballot—partly because the measure appeared to lack the requisite number of signatures—the legislature hastily passed, and the Governor signed, a bill retroactively lowering the number so that Gann could qualify without further proceedings. During that same period Paul Gann had a heart attack. He blamed it on the California Supreme Court.

PETER SCHRAG

Peter Schrag is editorial page editor of the *Sacramento Bee*.

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EXECUTIVE POCKET KNIFE

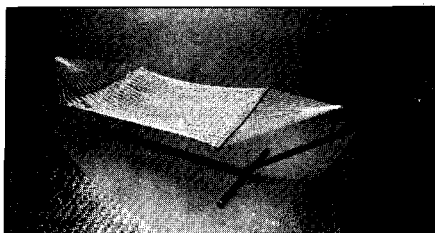
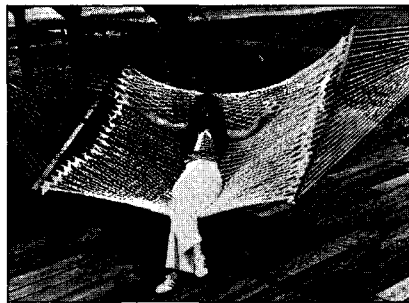


The pocket knife is a disappearing artifact. The clasp knife that for so many years rested comfortably in countless overall pockets is much too heavy and bulky to slip into tailored slacks. Now the pocket knife appears mostly among campers, Boy Scouts and

farmers who still cut plug tobacco. But the loss of the pocket knife has cost us all a great deal of convenience. At least once a day some situation arises where a knife blade is called for—to open a letter or a box, to cut a cord or a thread, to coax out a splinter or loosen a knot. So we were delighted to find this new line of pocket knives that have no more weight or bulk than about a dollar's worth of loose change. These knives are only 2" long and 5/16" thick (with a 1 1/4" well-honed stainless steel blade), but they are beautifully made and far more rugged than their modest size suggests. The blade has a safety lock, so it cannot close accidentally. These stylish knives are rather affectionately known as Big Bens and are available in two models: in polished stainless steel for \$16.00 (\$1.95) #A419; or with a sandalwood handle for \$16.00 (\$1.95) #A420.

GETTING IN THE SWING

The best tool for putting together an afternoon of outstanding relaxation is the old-fashioned rope hammock. You just stretch out there, and in no time, your kinks are unkinked, your snarls unwound. This finest rope hammock on the market today is made entirely by hand in Pawleys Island, S.C., where they've been making it for 100 years. The hammock uses 100% cotton rope netting and seasoned oak stretchers. The cotton is extremely comfortable, durable and will weather to a nice gray shade. It measures a generous 54" wide by 82" long in the reclining area, and 13' in overall length, so you won't be cramped or crowded. The hammock comes complete with mounting hooks and chain. (Hint: Buy a duplicate set of hooks at your local hardware store so you can use it indoors or out.) The first-class Pawleys Island



hammock costs \$85.00 (\$7.95) #A465. And if you don't have a tree from which to hang your hammock, we can provide a heavy-duty iron stand, as shown here, for \$125.00 (\$9.95) #A466.

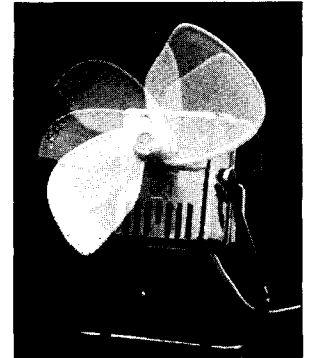
DUST MAGNET



If we ever compile a book on *The Old Ways That Were Better Ways*, we will certainly include a chapter on the lambswool duster. This remarkable implement originated, the best we can tell, in 19th-century England where it quickly put the feather-duster to shame. On its own it actually attracts and holds dust like a magnet. The static charge in the lambswool causes dust literally to leap off surfaces where it has accumulated, making this just the thing for dusting bric-a-brac, china, crystal, pictures and other fragile items. When soiled, just wash it in warm soapy water. Let it dry, fluff it out and store it, hanging from a conveniently located hole at the end of its handle. We are happy to offer a 20" authentic lambswool duster for \$8.00 (\$1.95) #A163.

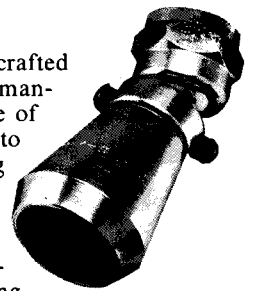
A MIGHTY LITTLE FAN

The most important qualities of a household fan are safety, quietness, portability and force enough to get the air circulating. We've found a little power-house of a fan that meets all these criteria admirably. This two-speed fan is completely safe—if the spin of the soft plastic blades is interrupted, the fan simply stops. It moves an impressive volume of air and its operation is nearly noiseless. Good air circulation is essential year round, especially if you're watching your energy dollars. In the winter this fan will help keep warm air off the ceiling; in the summer it will draw cool air off the floor where it will make you more comfortable. We have friends who keep one in the kitchen to help dissipate unpleasant cooking odors. Because of its small compact size it can be used practically anywhere: countertop, desk, windowsill or bathroom. With a chrome-plated motor housing and contrasting white blades, the little fans look as good as they work. We can supply them for \$26.00 (\$2.95) #A516. We can send you the same fan with a durable white plastic motor housing instead of chrome-plating for \$25.00 (\$2.95) #A523.

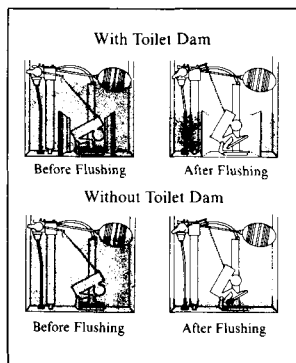


SAVINGS IN THE SHOWER

Tools For Living has discovered a finely crafted shower head called the Deluxe Fuel Saver manufactured by Con-Serv, which cuts the use of water—hot water—in the shower from 5 or 8 to 2.45 gallons per minute. Remember, heating water throughout the year is second only to the cost of heating the house. With the conventional shower head, the average family of four uses 300 to 400 gals. of water—much of it heated—every day. According to U.S. Department of Energy figures, with the Deluxe Fuel Saver that same family uses 70% less water in the shower and realizes a savings of between \$150 and \$350 depending on the utility rates. The prototype of the Deluxe Fuel Saver was originally developed for use in the U.S. nuclear submarine program. Con-Serv designed the new Deluxe Fuel Saver expressly for the consumer, without compromising comfort or high quality. Although the amount of water is significantly reduced, it is aerated and accelerated—utilizing the Venturi principle—for an invigorating shower. It delivers a comfortable yet forceful spray—forceful enough to quickly rinse shampoo suds out of a long, thick mane of hair. The Deluxe Fuel Saver also offers a "trickle valve" that allows you to stop water flow while soaping up. Made of chrome-plated solid brass, the Deluxe Fuel Saver is accompanied by a one-year limited warranty. It installs easily over the standard 1/2" shower head arm with pliers or a wrench—no plumber is needed. We offer the Con-Serv Deluxe Fuel Saver for \$16.00 (\$2.95) #A351.



TOILET SANITY

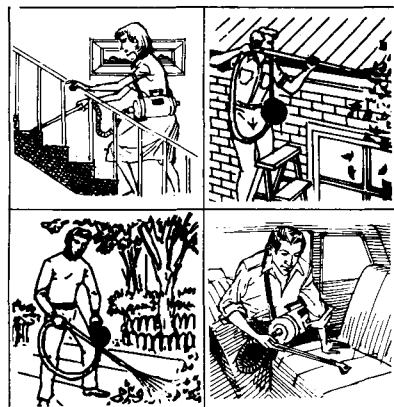
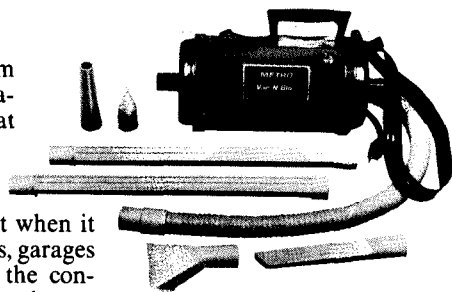


A government study shows that 45% of the water used by the average American family gets flushed down the toilet. That is 90 gal. per day for the family of four. Such extravagance is unconscionable. The conventional flush toilet uses 5 to 8 gal. of clean fresh water each flush, when 2.5 to 3 gal. is sufficient. What can we do about this insanity? Use toilet dams. Putting a dam in the tank saves 1/3 to 1/2 the flush without reducing the toilet's effectiveness. (It doesn't reduce the *pressure* of the

flush, just the amount of water used.) Putting dams in all your toilets could cut your overall water use (and bill) up to 20%—a vital savings in the parts of the country now affected by drought and a sensible step for everyone to take. For \$11.00 (\$1.95), #A259, we can supply first-quality toilet dam units made of stainless steel and thermoplastic rubber. It comes with a 5-year manufacturer's limited warranty. It requires no tools (or special effort) to install and will pay for itself in a matter of months.

VAC-N-BLO

All vacuum cleaners are portable in the sense that they can be maneuvered quite easily from room to room. But when it comes to stairs, cars, garages and outdoor uses the conventional vacuum cleaner loses much of its portability. Here is a different breed of indoor/outdoor vacuum. The Metro Vac-n-Blo slips right over your shoulder, weighs less than 10 pounds and will go practically anywhere. Attach to one end and you have a vacuum with suction stronger than some full size canister machines. Attach to the other end and you have a 200 mph blower for cleaning walks and gutters and other outdoor jobs (there's even an adapter for blowing up inflatables). The Vac-n-Blo unit is made of steel with a permanent cloth bag and comes with a 3' flexible hose, 2 20' extension wands and 4 interchangeable



nozzles. You will need to supply an extension cord. This UL listed Vac-n-Blo costs \$83.00 (\$6.95) #512. The American manufacturer supplies a one-year warranty. For more convenient indoor use, there is a conversion kit with a 3-wheel roll-around dolly, 3' flexible extension hose, dusting brush and swivel carpet/floor tool. \$22.00 (\$2.95) #A513.

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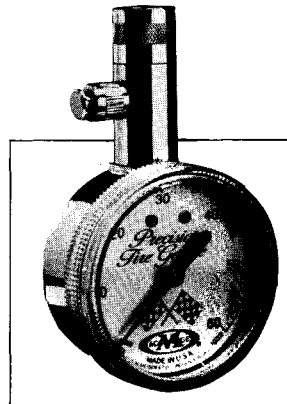
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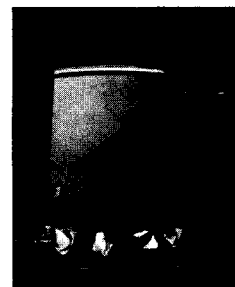
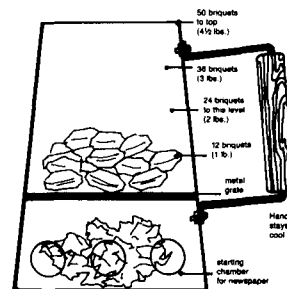


Underinflated tires increase the rolling resistance of an automobile. This means more energy is required to move the car, so it travels less distance per gallon of gas. But the importance of tire inflation does not end there; if inflation levels are off as little as 5% it can reduce your gas mileage, cause premature wear and affect your car's handling. Regularly checking your own tires at home has two accuracy advantages—first because tires should be checked cold, before they are driven anywhere, and second because the average automatic air pump error is about 4

lbs. Our choice for the best tool for keeping up with your tires is the AccuGage. This is a precision pressure gauge with a full geared brass movement. The case is heavy steel with an unbreakable crystal. The gauge stop hand holds a reading until you release it with a push-button bleeder valve, which also releases air to get an exact tire pressure. The AccuGage costs \$20.00 (\$2.95) #A460 and comes with a 2-year limited warranty.

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NR 062

A political strategy for economic relations.

TRADING WITH THE RUSSIANS

BY HENRY A. KISSINGER

IN THE WAKE of the Soviet invasion of Afghanistan and then of the suppression of liberty in Poland, two successive American Administrations vainly sought European support to restrict East-West trade. The resulting disagreements have left an unfortunate residue. In America, many believe that Europe subordinates long-term strategy and even security to short-term domestic politics; in Europe, many argue that America seeks to play for geopolitical stakes with European chips, risking the domestic cohesion of friendly countries without ourselves making equivalent sacrifices, as the lifting of the grain embargo suggests.

Pressures for East-West trade grew in the late 1960s and early 1970s—ironically, following the Soviet invasion of Czechoslovakia. It was argued in some quarters that despite occasional Soviet transgressions, increased trade would moderate Soviet behavior by making the U.S.S.R. increasingly dependent on the technology and grain of the industrial democracies. The American Administration then in office, in which I served, held from the first that trade should *follow* prior demonstrations of Soviet commitment to a more peaceful course and should be linked to Soviet international behavior. When the Soviet Union entered into serious negotiations on Berlin, SALT, mutual force reductions, and other matters, the United States gradually lifted restrictions, on a case-by-case basis and tied to specific projects. Our European allies followed, and far surpassed us in both the scale of their trade and credit and the ease with which they made it available.

Whatever the merit of the original theories, it is now clear that trade and credits can moderate Soviet conduct only if the Kremlin fears that intransigence will cost it the economic benefits it seeks. Yet that is what is most insistently rejected by the domestic interest groups in all countries that gain from East-West trade and by the Western governments that they influence. More and more, the governments of the industrial democracies act on the premise that the immediate gains in employment outweigh the political risks of strengthening a hostile and aggressive political sys-

tem. This is all the more shortsighted, since a mounting tide of radicalism and insecurity in the world—inevitably encouraged or abetted by a growth of Soviet power unrestrained by some agreed code of conduct—will sooner or later compound all economic difficulties as well.

There is little doubt that the negotiating balance in East-West trade has been reversed over the past decade. In every crisis, the West invents new excuses for declining to interrupt economic relations. Indeed, economic relations have done much more to induce Western restraint in the face of Soviet misconduct than to encourage Soviet restraint in international behavior.

The inequality in bargaining positions is almost entirely the result of the disunity of the democracies. The West is divided into competing units that are sometimes prevented by antitrust legislation from acting together, and often encouraged by governments that seek special benefits for their national industries by concessional credits. Loans have been offered or encouraged with little or no consideration of Soviet or East European ability to use or repay the funds. Default is avoided by “rescheduling,” that is, lending more money to pay interest on what are in effect bad loans—protecting the lenders’ balance sheet. In these circumstances it is easy for the Kremlin to play Western countries, and even industries, against each other, obtaining benefits not justified by the economic balance of advantage, much less by political circumstances.

The result has been an anomaly. By any objective analysis, the Soviet Union and its satellites are infinitely more dependent on East-West trade than their trading partners, the industrial democracies. The Soviet Union cannot feed itself without the non-Communist world’s grain; it desperately needs Western technology. The inequality in benefits would long since have reduced trade to a trickle had not Western governments stepped in with direct or hidden credits, which now amount to nearly \$90 billion for the Communist world. In addition, many export prices are subsidized by governments directly or indirectly. The Communist countries thus are not only gaining a relative advantage in trade, but are also being financed by the nations against whom they are simultaneously

Henry A. Kissinger’s latest book is *Years of Upheaval* (Little, Brown).

conducting a geopolitical offensive. Lenin's legendary dictum that capitalists would compete to sell the rope with which they would be hanged is coming true with a vengeance—for Lenin never guessed that Western governments would provide the money to buy the rope and subsidize the price to facilitate the purchase.

It is unthinkable that the West should continue to use its overwhelming share of the world's economic power so frivolously. We are on the defensive not because we lack resources but because we have failed to muster the will or the leadership to organize a coherent response. We have tried stop-and-go sanctions. They have failed because they affected various countries and different sectors of the economy unequally. They have turned into pinpricks dramatizing the West's weakness rather than its mastery of the situation.

The issue has further been clouded by the extreme manner in which the choices have been stated. Some opponents of East-West trade seem to hope that a total denial of economic benefits would force the collapse of the Soviet system. This theory is disproved by history. The Soviet system survived several decades of economic isolation and did not crumble. And it runs counter to the domestic pressures for seeking negotiations on a broad front. The last eighteen months show that the alliance will not sustain a policy of confrontation for its own sake, unrelieved by any hope of diplomatic progress.

But the opposite theory, of the automatic mellowing effect of trade, has also been demonstrated to be fallacious. Soviet behavior in recent years has given the lie to the argument that trade and credits by themselves will bring about a benign evolution of the Soviet system. Soviet-Cuban intervention in Angola, in Ethiopia, and in South Yemen; the invasion of Afghanistan; the suppression of Solidarity in Poland; and the use of toxic chemical and biological warfare in Afghanistan and Southeast Asia have all occurred in precisely the period of expanded East-West economic cooperation.

IF THE DEMOCRACIES continue to make available their hard-earned resources for an assault on the geopolitical balance, they must not be surprised at the inevitable decline in their security and prosperity. So long as the Soviet Union asks us for help in solving its economic problems by what amounts to Western aid, the industrial democracies have the right, and indeed the duty, to insist on restraint and stability in international conduct in return.

The industrial democracies are in a position to use their economic strength positively and creatively. There exists a sensible rationale for East-West trade which is neither unrestricted economic warfare nor uncontrolled Soviet access to Western trade, credit, and technology. If the democracies cannot concert unified political criteria, they should at least be able to

agree on letting market conditions determine the level of East-West trade and credit. If government-guaranteed credits and subsidies were to end, East-West trade would be reduced to the level of reciprocal economic benefit—or a small fraction of what now exists. If the Soviets want to go beyond this—if they seek further credits or subsidized prices—the West should insist on a *political quid pro quo*.

TO THIS END, the industrial democracies should jointly take the position that they are prepared over the long term to engage in economic cooperation, even on an augmented scale—but only if there is in return a comprehensive political understanding providing for settlement of the most serious outstanding problems, specific restraint in superpower conduct, and major steps toward arms reduction. The conditions should not be pious platitudes and should be spelled out in concrete detail. Nor should we delude ourselves: this cannot be achieved without a period, perhaps of some years, of disciplined coordination and restraint among the democracies to convince the Soviets that we are serious.

Specifically, the democracies should start by specifying their objectives in the political area to provide clear-cut criteria for progress. The most important message would be that the industrial democracies propose to speak with the East with one voice.

Second, there should be an urgent updating of the list of prohibited strategic exports and a determination to stick to it.

Third, the democracies should examine at the highest level on what political terms the Soviet Union and the nations in its system will enjoy governmentally supported access to Western trade and financial resources. Policies on export credits and financial guarantees should be reviewed periodically, based on a commitment to establish a common and noncompetitive policy among all members of the Organization for Economic Cooperation and Development.

Fourth, the democracies should agree to end progressively all government subsidies and guarantees for private bank credits to Eastern Europe. Given the nearly catastrophic performance of Communist economies, the marketplace would determine the proper flow of private credit, probably to restrict if not eliminate it. The same principle should apply to subsidized prices. Concurrently, there should be an agreement that rescheduling of existing debts will be heavily influenced by behavior of the countries concerned, especially in the field of foreign policy but including an end of martial law in Poland.

Fifth, there should be an urgent review of the grain export policy of the major grain-producing nations to determine how it can serve the strategy sketched here without undue hardship to the farmers in all our countries.

Finally, there must be a consensus among the de-

mocracies about what form of expanded economic cooperation we are prepared to undertake with the Communist world if this strategy of Western economic coordination leads to a broad East-West political understanding. The Versailles summit would seem to provide a useful forum to begin such a process.

What these measures suggest is in the long-term interest of *both* East and West. It discourages Soviet adventurism grounded in the belief that the West is too weak, too selfish, or too divided to defend its interests with its best weapons. It thus forces the Soviets to make real choices at a time when their succession struggle will inevitably involve an internal debate over priorities and a possible desire to ease outside pressures. If it leads to the sort of political settlement that precludes later reversal, trade and credit can safely be expanded. If such a settlement is unattainable, continuing our present trade and credit practices will in effect accelerate our crisis. In that case, future generations will not be able to explain what possessed their predecessors to engineer their own decline by lassitude, greed, or lack of leadership.

If the industrial democracies wish to subsidize their

exports by easy credit or pricing policies, the creative area for such efforts is not in the Communist countries but in the third world—especially among its moderate, market-oriented governments.

The Soviet Union is a system with no legitimate method of succession, a stagnant economy, a demographic challenge in the growth of its non-Russian population, and ideological claims whose bankruptcy is being proven by the working class of Poland in the streets of Polish cities. The joke of recent history is that the only spontaneous revolutions in industrialized countries have been against Communist governments. A system that feels so threatened by even the most elementary liberties, a system so structurally unsound and so patently contrary to the human spirit, can prevail only by our inadequacies, not by its own efforts. The West, which over centuries has shaped a great civilization—of culture, philosophy, inventiveness, and well-being—must not now abdicate control of its own destiny to short-term calculations. Democracy requires above all clarity of thought, fortitude, and leaders willing to present the facts to their people and prepared to deal with complexity.

For the Social Democrats, winning isn't everything.

IS SCHMIDT'S PARTY OVER?

BY JOSEF JOFFE

Hamburg

THE SOCIAL DEMOCRATS are Germany's oldest party. They survived Bismarck, the Kaiser, and Hitler. During the war, the party withstood violence and exile. Resurrected amid the ruins, the Social Democratic Party found itself condemned to seventeen years on the opposition benches. In the end it triumphed, wresting the Bonn government from its conservative rival.

But that was thirteen years ago. Today the SPD is in danger. The threat it faces stems not from the defamation and persecution of decades past but, paradoxically, from the very possession of power. The SPD has ruled West Germany (in tandem with the liberal Free Democrats) for half a generation, and Helmut Schmidt's tenure has now overlapped with that of four American Presidents, three presidents of France, and

three British prime ministers. The Chancellor has managed to ride out two oil shocks and the worst worldwide recession since the Great Crash. Yet if there were an election next Sunday, the SPD would get only one-third of the total vote, while the Conservatives (the CDU/CSU) would walk away with a landslide—and over 50 percent of the ballots cast.

The paper defeat in the opinion polls is mirrored in the real disaster of recent *Land* (state) elections. Last year the SPD lost Berlin, its most solid electoral stronghold for generations. (Even at the height of Nazi power, Hitler never felt comfortable in "red" Berlin.) In the *Land* elections in Lower Saxony, the SPD was overwhelmed by the Conservatives, 37 to 51 percent. In the regional votes to come, Hamburg in June and Hesse in September, the Social Democrats will be lucky if they lose only one of the two states. If they are defeated in the national contest of 1984, the Social Democrats will have nowhere to go to lick their

Josef Joffe is a senior editor of the West German weekly *Die Zeit*.

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wounds—outclassed not only in Bonn but also in the *Land* capitals, the big cities that have traditionally offered them a safe haven for consolidation and counterattack.

If they lose in 1984 they will also lose Helmut Schmidt, 64, the man who has kept the SPD in power in spite of itself. (In the opinion polls, the Chancellor has always proved far more popular than his own party.) A successor of similar caliber is nowhere in sight, and dark horses don't run well in West Germany. Unlike the electoral system in the U.S., where a Jimmy Carter can emerge from nowhere to become President, the system in West Germany imposes a drawn-out, grueling test on any would-be national leader.

IT SEEMS, then, that the Social Democrats are headed for a long, irreversible decline. Where did they go wrong? Part of the answer is that the party moved to the left while the electorate was shifting rightward—and the voters fled in droves. Since the last national elections, in 1980, the Social Democrats have lost 25 percent of their partisans. Significantly, one-half of the deserters flocked to the Conservatives, while one-quarter each went to the Liberals (FDP) and the Ecologists (the “Greens”). To be sure, there is no New Majority gathering in West Germany, nor is there anything like a neoconservative backlash. Yet, as in the United States, there is an inchoate sense that big government has run its course, that the welfare state needs paring and pruning. And there is a sense that social and political renewal—the SPD's vote-getting battle cry of the 1970s—creates as many problems as it solves, that they are invariably accompanied by the exponential growth of bureaucracy, and that there is no such thing as a cost-free reform. Moreover, a wider social safety net, more autobahns, longer vacations, and university degrees for one and all not only take an ever-increasing chunk out of people's paychecks, but also fuel a vicious inflation of expectations which necessarily redounds against the powers that be.

Classical social-democratic strategy, as demoralized Democrats in the United States have also learned, works fine as long as the economy keeps expanding. You can give to Peter without taking from Paul, and a burgeoning resource base spares policymakers the painful necessity of choice. Yet toward the end of the 1970s, the vaunted “economic miracle” of postwar Germany began to develop some ugly cracks. Inflation, minimal by American standards, accelerated along with unemployment, and so did the growth of the national debt. Suddenly choices *had* to be made. They proved too hard for a party which had hitched its wagon to a vast program of more, bigger, and better.

Today the SPD is no longer capable of governing, if by governing we mean the ability to make and execute political choices. On the three key issues in contemporary Germany—energy, the economy, and defense—the party is stalemated. Indeed, the really interesting

political battles are fought *within* the party, not between the Social Democrats and a Conservative opposition which has almost turned into a tacit ally of the beleaguered Chancellor.

On nuclear energy, in Germany a shorthand symbol for sustained economic growth, the SPD is immobilized between those who worry about jobs (unemployment has climbed to 8 percent) and those who worry about the environment. On economic policy, Helmut Schmidt is trapped between his party and his coalition partner, the Liberals. The SPD's rank and file, particularly in the unions, clamor for reflation and state intervention in the market; the Liberals, supply-minded defenders of free enterprise and fiscal restraint, stand ready to bolt from the government (and thus topple it) if Schmidt succumbs to the pressure of his cohorts.

On defense, the most divisive issue, the Chancellor is barely holding his own. Two-and-a-half years ago, Schmidt committed the country to the deployment of Pershing II and cruise missiles by 1983 if arms control talks do not lead to the scrapping of Soviet intermediate-range missiles targeted on Europe. It is a decision he has probably come to regret, hounded as he is by a strident (and growing) minority in his own party which regards the Western response as a greater threat to peace than the enshrinement of Soviet superiority.

During April's SPD congress in Munich, Schmidt managed to avoid an embarrassing test of strength only by evading debate. His tormentors—inspired by pacifist principle, detente-minded “realism,” or sheer angst—had introduced countless resolutions which, obliquely or directly, all aimed at the derailment of NATO's “two-track” approach to missile modernization. Instead of meeting them head-on, Schmidt took refuge in a parliamentary maneuver: he asked for the postponement of debate until next year. That the Chancellor, one of the prime movers behind the alliance's 1979 decision, should have “won” by refusing to do battle is a telling comment on the waning strength of his leadership and the state of the SPD.

TODAY THE SPD is not one but two parties. To see the infighting in simple left-right terms would not do justice to the profundity of the split. The battle is almost between two cultures, not just between two wings. On the one hand, there are those who, like Schmidt, view politics as a rather humdrum exercise in *realpolitik*—a messy mix of compromises geared to the harnessing of majorities and the winning of elections. To them, the helm matters more than the lookout, the possession of power more than the purity of Socialist principle. It is not surprising, therefore, that Schmidt keeps quoting Max Weber rather than Karl Marx to his unruly comrades—preaching prudence and humility against what Weber pooh-poohed as the “ethics of pure conviction.”

On the other side of the divide are the standard-

bearers of the "New Politics," which, in the German version, frequently comes out as "No Politics" or simply as "No": no to nuclear energy and economic growth, no to nuclear weapons and NATO obligations, no to industrial society and its elaborate division of labor. Their shibboleths are "emancipation," "participation," and "autonomy," which they pit against the stifling constraints of institutionalized politics, with its premium on procedure, bargaining, and compromise.

As Chancellor Schmidt put it not so long ago, the SPD is in danger of turning into an "association for the propagation of minority groups and minority views." The problem is probably familiar to U.S. Democrats who found out to their dismay that the boundless servicing of single-minded new groups does not necessarily make for an aggregation of more strength. After a certain point, the result is not an election-winning coalition but only fragmentation and stalemate.

What the convention rules change did to the Democratic Party in the 1970s, the absorption of the "Sixties Generation" is doing to the SPD now. (In Germany everything takes a bit longer—perhaps because tuition-free universities and a lavish welfare state allow for an even more prolonged adolescence than elsewhere in the West.) The would-be revolutionaries of the 1960s who had vowed to embark on a "long march through the institutions" started out by capturing the local party organizations of the SPD, precinct by precinct. The blue-collar old guard proved an easy match for the sociology-spouting young intelligentsia. By the time crucial votes were taken, the stalwarts had long gone home to catch enough sleep for a hard day at the factory—leaving the quorum to those who could postpone their exams to yet another semester.

The precinct-busting ideologues of the 1960s and

the "Greens" of the 1970s are the convention delegates of the 1980s. Though a minority, they are fitfully gaining ground on an aging generation of leaders whose key memories were shaped by war and cold war, by material want and the long, patient push for power. Today's traditional SPD voter, grown prosperous on a steady diet of economic plenty, has far more to lose than his chains; his university-trained children and grandchildren, on the other hand, yearn for the

never-never land of doctrinal purity which they see beckoning on the opposition benches. "As an SPD leader," laments Hamburg's Mayor, Klaus von Dohnanyi, "you can only gain credibility with the young if you drop out of political office."

At best, their historical memory extends as far back as the Vietnam War. Nurtured on *Ostpolitik* and detente, they are oblivious to the building blocks that went into the making of European stability, and are hostile to the claims of a credible military posture. They deplore the deadweight of bipolarity, and they blissfully ignore its historical cause: a murderous war by the Nazis which destroyed the European equilibrium and brought

the two superpowers into the heart of the old Continent. Bereft of the history their shell-shocked elders dared not teach them, they fancy themselves fit to transcend it. Hence the yearning for pacifism, neutralism, and nationalism: if we could only push back the "superpowers," if they would only leave us alone, we would live in peace (and all-German unity) ever after.

The new German nationalism, a minority phenomenon to begin with, lacks the stridency and aggressiveness of its prewar forebears. Its quality is *Candide*-like and inward-looking, almost escapist: if we get rid of the weapons, we'll get rid of war; if we shrug off our dependence on the United States, we won't have to



HELMUT SCHMIDT BY VINT LAWRENCE FOR THE NEW REPUBLIC

fear the looming presence of the Soviet Union. Like the meek-mannered heroes in the novels of Hermann Hesse, the protagonists of the new left seek in distant climes what they cannot achieve on their drab and well-ordered home turf: revolutionary transformation. Hence their fascination with Latin American guerrillas, their automatic attachment to the Salvadoran rebels, their reflexive hostility to the United States, whose paltry presence in Central America is apparently a far greater insult to national self-determination than Russian divisions in Afghanistan.

Will they carry the day? The answer is a cautious no. Given the facts of political life in West Germany, the SPD can only move further to the left at the risk of electoral obliteration. Helmut Schmidt knows it, and so does party chairman Willy Brandt, 69, even though in his dotage he has developed a dreamy affinity for the red and green slogans of his juniors.

The SPD is in very deep trouble, but it has survived worse calamities in the 120 years of its existence. If worst comes to worst, it will survive even a split—as it did in 1917, when the left wing bolted to form its own (short-lived) party. During April's national congress in Munich, at any rate, the Cassandras were proven wrong. The executive carried all the crucial motions—such as the postponement of debate on Euromissiles—with a two-thirds majority.

And it would be premature to count Helmut

Schmidt out in 1984. Already the economy is looking up, and the inflation rate is going down. After a long decline, the deutsch mark is forging ahead on international currency markets, and West German export surpluses are again climbing to dizzying heights. By 1984, the pocketbook-conscious electorate might be ready to forgive and forget. And then there is that old adage of American politics which applies just as well to West Germany: "You can't beat somebody with nobody."

The Conservatives might look like shoo-ins in the polls but they have never overcome a mortal handicap at the polls. Since the political demise of Konrad Adenauer, who ruled West Germany for fourteen years, they have never been able to field a leader equally acceptable to both party and populace. Their problem is the reverse of the SPD's: Christian-Democratic chancellor candidates normally look far less attractive than the party itself. And instead of joining forces for a concerted push on Bonn, Adenauer's epigones tend to devote their talents to stalemating each other. The suicidal yearnings of the Social Democrats are thus amply matched by the regicidal impulses of the Conservatives. In short, what ideology is to the SPD, personality is to the CDU/CSU: a deeply divisive factor that makes for immobility. Regardless of the favorable electoral trends, the Conservatives will be hard-put to find a "somebody" to beat Helmut Schmidt in 1984.

Have you hugged your lab animal today?

MONKEY BUSINESS

BY TIMOTHY NOAH

"THIS IS VIVISECTION," proclaimed scores of posters that appeared overnight all over Washington to designate April 24 an International Day for Laboratory Animals. "Don't let anyone tell you differently." The posters were illustrated with a lurid photograph of a monkey trapped in an elaborate scaffold, its neck wedged in a narrow aperture and its arms extended, Christ-like, to the outer bars, where they were tightly bandaged. The photograph was a little deceptive. The scaffold was really a restraining chair whose "seat" was obscured by the head-on angle, and though the monkey appeared to be choking, more likely it was simply trying to jerk its head free, and was only seconds short of surrendering. This unmistakable image of suffering, however, was strong enough to lure two hundred demonstrators on the appointed day to a

solemn funeral procession, led by a real hearse, that circled the Capitol, drove past the White House, and ended in Bethesda, Maryland, where an empty coffin was unloaded before the National Institutes of Health.

In a world of malnutrition, yellow rain, and prison rape, it seems more than a little dilettantish to invoke "animal welfare," "animal rights," or, at the most self-parodistic level, "animal liberation." Despite such silly slogans, however, animal lovers can at least make a dimly plausible case for some of their doctrine. Vegetarianism, for instance, may not rank up there with vaccinating ghetto schoolchildren, but it's a good many ethical notches up from, say, practicing tax law. Even when militancy on behalf of animals leads to socially embarrassing situations, such as the denunciation of an impoverished Eskimo whale hunter by a

Scarsdale housewife, one might argue that shining through the wealthy woman's arrogance is the faint glimmering of an ethical principle. After all, didn't the justly admired Albert Schweitzer admonish us to consider a man ethical "only when life as such is sacred to him, that of plants and animals as that of his fellow man"? (Let's ignore for the moment less admirable exemplars like Caligula, who loved his horse so much that he made him a senator, and Hermann Goering, who kept a sign in his Berlin office which read, "He who tortures animals wounds the feelings of the German people.")

IT'S DIFFERENT with anti-vivisectionists. Overtly or implicitly, they reject *in principle* the use of animals in experimentation. (Many will add the caveat, "experimentation that causes pain," but in practice that means just about everything except rats in mazes.) The issue is not human appetites; their concern is not for cattle at the slaughterhouse. Nor is it human vanity. Sealskin coats may be distasteful (though more from an economic point of view than a humanitarian one), but anti-vivisection has nothing to do with the skinning of seals. To be sure, most anti-vivisectionists object to these other forms of cruelty to animals. But by strict definition, anti-vivisection is opposition to animal suffering that may ease human suffering. As philosopher Peter Singer writes in *Animal Liberation*, a very silly 1975 tract that grew out of an article in the *New York Review of Books* and became the bible of the anti-vivisection movement, "An experiment cannot be justifiable unless the experiment is so important that the use of a retarded human being would also be justifiable." In other words, the ethical rules governing animal experimentation are the same thorny rules that govern human experimentation. (See "The Ethics of Human Experimentation," by Charles Krauthammer, *TNR*, December 12, 1981.)

The three major anti-vivisection societies in America—the National, American, and New England "AVs"—are seeking to prevent scientists from harming animals to help human beings. With a combined and partly overlapping membership of under 100,000, their numbers are small. But add to that perhaps as many as ten million members and supporters of various Humane Societies, SPCAs, and other animal welfare groups, which are showing an inclination to join the crusade against animal experimentation, and you have what a prudent futurologist might call an incipient national movement. The Humane Society of America, for instance, is currently seeking to prevent "pound seizure," or the use for medical experiments of animals turned over to local pounds. It recently had a victory in the city of Los Angeles, and is now seeking a statewide ban in California. A spokeswoman for the group argues that these animals are pets—though only a fraction of all pound animals are ever reclaimed by their owners—and denies that the Humane Society is

anti-vivisectionist. It may not be in theory, but clamping down on the supply of laboratory animals is an effective way to put anti-vivisection into practice. Another factor that may help anti-vivisection blossom into a nationwide movement is the odd tendency many of us have to care more deeply about cruelty to animals than about cruelty to human beings. This was illustrated vividly in 1973, when Representative Les Aspin, Democrat of Wisconsin, discovered that the Defense Department intended to use two hundred beagle puppies to test poisonous gases. To be sure, this was not an experiment whose benefit to mankind was immediately apparent. But when the volume of mail surpassed the number of letters Defense had received over the bombings of North Vietnam and Cambodia, true humanitarians had cause to wonder. Anti-vivisectionists, on the other hand, ought to have broken out the champagne. (They were much too surly to do that, of course; Singer gripes that the beagle protest demonstrated "a remarkable ignorance of the nature of quite standard experiments performed by the armed services, research establishments, universities, and commercial firms of many different kinds.") Anti-vivisection has broad appeal insofar as all of us hate the idea of cruelty to animals. But it is, on three levels, a deeply misanthropic movement.

THE FIRST LEVEL is the most familiar: good, old-fashioned hatred of a particular individual. In this case, the individual is a biologist in Silver Spring, Maryland, named Edward Taub. Taub has become a national scapegoat for the anti-vivisection movement because of his alleged (and wholly unproven) mistreatment of seventeen monkeys that were seized from the Institute for Behavioral Research by Montgomery County police last September at the instigation of one of Taub's lab assistants, an undercover animal welfare advocate from People for the Ethical Treatment of Animals. (It was PETA that sponsored the "funeral procession" in April, and one of Taub's monkeys that illustrated the poster. The photograph also appeared in the *Washington Post* the day after the raid.) Taub has received surprisingly unkind treatment from a movement that calls itself humanitarian. "The man was guilty of cruelty on every single count he was charged with," seethes Cleveland Amory, the former *TV Guide* critic and columnist for *Saturday Review*, whose Fund for Animals contributed \$20,000 to Taub's legal harassment. Not a very merciful point of view, especially considering that the state of Maryland found Taub *innocent* of all but six of the one hundred and thirteen counts brought against him. And those six counts really amount to one count brought six times, in an odd legal arrangement whereby six wronged monkeys were treated rather more like plaintiffs than like collective property. The charge each of the monkeys brought against their keeper was "unnecessarily failing to provide veterinary care" by an outside vet. For

this heinous crime, Taub was fined \$3,000.

Mild punishment, perhaps, if it had ended there. But with all the awkward publicity, the NIH was compelled to review Taub's \$200,000 grant. Two months previous to the September raid, a routine site inspection by the Department of Agriculture had approved Taub's laboratory. Now, however, NIH's eyes were opened to Taub's negligence, and it suspended his grant. Most significant among the reasons, again, was Taub's failure to keep a veterinarian around the lab. The result was that a lot of sores on the monkey's limbs went unbandaged. Some explanation is required here. Taub's experiments involved severing the sensory nerves of monkeys (we'll get to the reason later). Once a limb was numbed, or "deafferented," the monkey had a habit of biting and scratching it. Since the monkey could feel no pain—a point anti-vivisectionists like to overlook—it tended to bite and scratch so much that bad sores appeared on its deafferented limb. Veterinarians questioned at Taub's trial voiced outrage over his failure to bandage the monkeys. But Taub argued—along with five other scientists, two of them also veterinarians who had had experience with deafferented monkeys—that bandaging only made things worse, because the

monkeys tended then to bite and scratch at the *unbandaged* part. The court and NIH rejected Taub's argument. Then NIH, to whom the court assigned custody of the monkeys, proceeded to follow Taub's advice: in its own treatment of the deafferented limbs, it didn't bandage them either.

Two other reasons NIH cited for suspension of Taub's grant were poor ventilation and dirty animal cages. Dr. William Raub, Associate Director for Extramural Research and Training, says these were the "major issues." Taub dismisses the criticism of his ventilation system as a technical violation of NIH guidelines that even labs at NIH's research campus in Bethesda routinely violate. NIH guidelines say nothing about cages. Let's assume, however, that ventilation was poor and the cages were dirty. Would Taub routinely expose *himself* to an environment that was unclean enough to threaten health? For if the monkeys were in danger, surely anyone who handled them as much as Taub did

might also be in danger. Remember also that a lab that was dirty enough to be unhygienic was not likely to go unnoticed by the inspector from the Department of Agriculture who had dropped by, unannounced, in July. Likelier than not, NIH was troubled by appearances, not by ethics. The best way to keep up appearances was to agree with the anti-vivisectionists that Taub shouldn't be allowed to experiment on monkeys. So NIH suspended Taub's grant.

Consequently, Edward Taub can't at the moment experiment with monkeys, as he has for the past twenty-five years. (He claims he has spent more time studying deafferented monkeys than anyone else alive.) Is the world any worse off? The answer is yes,

and the reason brings us to the second level of misanthropy in anti-vivisection: to rule out animal suffering is to condone human suffering. Taub's experiments were directed at a phenomenon known as "learned nonuse." It is common among stroke victims, and also occurs sometimes to sufferers of spinal injuries. Learned nonuse is exactly what it sounds like: when life doesn't depend on using a limb deadened to sensation, a person (or monkey) may never make the effort to use it. Although muscles may function normally, the loss of sensation results in a

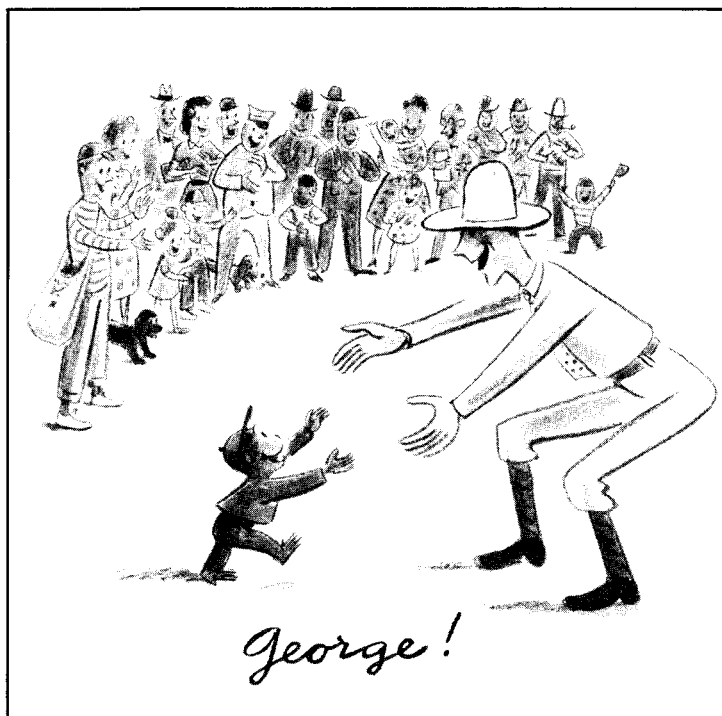


ILLUSTRATION FROM 'CURIOUS GEORGE RIDES A BIKE'
(HOUGHTON MIFFLIN, © 1952) BY H. A. REY

kind of voluntary paralysis. Victims thus must relearn how to use the limbs. Taub says his research may be applicable to roughly one-sixth of all stroke victims, and has already been adapted into clinical technique at two hospitals in the United States. This is the "inhuman" research that anti-vivisectionists have curtailed. They would also like to end the practice of poisoning laboratory animals to determine the lethality of potential drugs and cosmetics. They argue that lethality varies wildly from species to species, particularly in the oral LD 50 test, in which sixty to a hundred animals are fed enough of a substance to kill 50 percent of them. That's true. But the alternatives they suggest—tests on tissue cultures and computer models—are even more unreliable. Such methods are fine for use in preliminary tests, to weed out obviously toxic substances. But those substances not weeded out inevitably must be tested on whole systems. And, as Dr. Raub testified before the House Subcommittee on

Science, Research, and Technology, in the study of "the integrated functions of an intact higher organism or the interaction of organ systems, animal experimentation is inevitable." The only alternative—releasing a drug without such testing—amounts to *human* experimentation.

In response to the anti-vivisectionist cry against animal experimentation, Representative Douglas Walgren, Democrat of Pennsylvania and chairman of the Science, Research and Technology Subcommittee, has submitted the Humane Care and Development of Substitutes for Animals in Research Act. The main features of the bill are the addition of red tape in the processing of animal research grants, including the creation of an "animal care committee" on which one place is reserved for an animal welfare advocate, and the appropriation of \$75 million over the next three years for development of alternative research methods and "improving animal care facilities." The first provision—red tape—is at best needless (the NIH and Department of Agriculture are already responsible for review and inspection of animal treatment) and at worst a blow to biological (and consequently medical) science. Anti-vivisectionists like to bring up the example of Britain when they try to seem reasonable; licensing for animal experimentation is severely restricted there. British fondness for animals is one of that culture's most endearing qualities. Who among us wasn't touched when the Duke of Edinburgh recently complained that the Falklands conflict might lead to the death of many whales, who emit echoes that sound like Argentine submarines? Deference to the animal kingdom is also, some scientists say, the reason animal research in Britain lags behind in an otherwise impressive tradition of biological research. And as psychiatrist Jeri A. Sechzer has written in the British journal, *Social Science and Medicine*, whatever limits are placed on scientists in Britain would have much worse effect in the U.S., "where there are thousands of research centers and scientists" as compared to the relatively small scientific community in Britain. "Should the use of animals for research and teaching be curtailed as a result of hastily conceived legislation," Sechzer writes, "progress in gaining knowledge crucial to human and animal well being would be disrupted."

The problems inherent in this sort of regulation are illustrated in the troubling issue of anesthesia. Everyone agrees that animals should not be exposed to unnecessary pain. But neither should scientists be hamstrung by the requirement to use anesthesia in every animal experiment that might cause pain. There are too many experiments—particularly those testing the effects of drugs—that would be impossible to conduct in any scientifically reliable way if this additional chemical variable were made mandatory. The Walgren bill requires "in any case involving surgery or other invasive procedures on animals, appropriate assurances of the proper use of tranquilizers." A sub-

committee staffer says the word "proper" allows researchers to fudge when anesthesia might threaten results. But would an "animal care committee" interpret its mandate the same way?

The appropriation of \$75 million for upgrading facilities and searching for alternatives to animal experimentation is also a blow to the progress of human well-being. No one is anxious to guess where the money will come from, but in the current economic climate it isn't likely this nonsense would be paid for with a new addition to the budget. Rather, the Department of Health and Human Services, which is placed in charge of this program, would have to raid the people kitty. Thus we would witness the absurdity of cutting appropriations for Medicaid, Aid to Families with Dependent Children, and food stamps to pay for welfare for animals. And taking a large view, what benefits would such research provide? Given the likelihood that in 2025 none of us will feel any better about taking pills that haven't been tested on living animals, not much.

THE THIRD and most ethereal level of misanthropy in the anti-vivisection movement is so intuitive that to launch on an extended attack of it would be sophomoric. It's that, fundamentally, animal welfare makes no distinction between the value of human life and that of animal life. The ease with which anti-vivisectionists pass from one to the other in ethical arguments is downright scary. Peter Singer's equation between the lot of a retarded person and that of a laboratory animal crystallizes the point. "I ask you to recognize that your attitudes to members of other species are a form of prejudice no less objectionable than prejudice about a person's race or sex," writes Singer in introducing the bogeyman of "speciesism," the animal kingdom's equivalent to ethnocentricity. Either this sort of talk makes you angry or it doesn't. An example helps. Alex Pacheco, the undercover animal liberationist who freed Edward Taub's monkeys, argues that the same premise upon which speciesism is based "was used by the slave owners and by white males against blacks and women. And it was used by the Nazis and by Hitler to justify the murder of millions of Jews." Pacheco should ask a ghetto black or an Auschwitz survivor how he likes the analogy. And he shouldn't be surprised when he gets an uncivil answer.

Anti-vivisection may never amount to much, although it has already caused Edward Taub some distress. But this is a case where a little paranoia among liberals would be justified. The right has creationism, the know-nothing doctrine that we aren't related to the apes; the left should avoid creationism's mirror image of anti-vivisection, the know-nothing doctrine that apes are members of the immediate family. Both are anti-scientific ways of thinking that do more harm than good to the prospect that the human race may someday cure its various, far more worrisome ills.

BOOKS AND THE ARTS

STANLEY KAUFFMANN ON FILMS

Worlds Without and Within

Statements by artists about their work are not invariably sound, but what Margarethe von Trotta says about her third film puts it in helpful relation to her

Marianne and Juliane
(New Yorker Films)

first two independent works. From *Kino* (April 1981):

In this film I try to draw a synthesis between my first and my second films. *The Second Awakening of Christa Klages* was a stock-taking of external circumstances in Federal Germany; the second film, *Sisters*, brings into focus the inner life of its characters. . . . My latest film . . . acts on both levels, it looks inside as well as outside.

Simplified though the comment is, it's not misleading. *Sisters* was made in 1979; when I reviewed it (TNR, February 10), I had not seen the earlier film. I've since had a chance to see *Christa Klages* (1977), which is only one more competent piece of New German Cinema, full of self-consciously dramatized radicalism. Beginning with its title, it's much more like the cinematic maneuverings of von Trotta's husband, Volker Schlöndorff, than like the artist she has since become. (*Christa Klages* is a worker in a day-care center who resorts to armed robbery to get funds for her center when other sources fail.) *Sisters* moved out of membership in a "school" of film to uniqueness, a dark and disturbing poem about a loving, strong, somewhat blundering older sister and a younger adoring one who kills herself. *Marianne and Juliane* (1981) is also about two sisters, the younger of whom dies, but as von Trotta said in her interview, here the outer world is integrated with the inner one; the forces of politics and social action are now part of the tensions between the two women.

The German title of this third film translates as *Leaden Times*—from a line in Hölderlin, "I almost feel as if in leaden times." Von Trotta's screenplay

comes from a true story of the 1970s concerning two daughters of a Protestant pastor. (The film is dedicated to the survivor.) The younger one, here called Marianne, becomes a political activist-terrorist; the older one, here called Juliane, devotes herself to "above-ground" social work, particularly on a woman's magazine. Strife grows between the sisters though love never dwindles. Marianne is eventually imprisoned—Juliane's prison visits are among the most masterly scenes—and one day is found hanging in her cell. The announcement says that she committed suicide. Juliane then becomes obsessed with proving that her sister was in fact murdered.

In the film Marianne has been married, had a son, then abandoned husband and child for activism. After his mother's death, this boy is horribly abused—literally set on fire—by his schoolmates. When he recovers, he comes to live with his aunt. On the wall is a photograph of his mother, which he takes down and tears up. Juliane tells him that he is wrong to be angry with his mother, that she was a wonderful woman. Juliane then sets out to tell him the truth about his mother; and that truth is the film which we have just seen.

The above sketch, though not inaccurate, could hardly be more brutal. It makes linear what is, in experience, a work of time-texture—not of flashbacks but of inseparable time planes. This method was used to some extent, very affectingly, in *Sisters*; but here one doesn't feel that it's "used," it is the film. "If I were to sum up the essential theme of the picture," said von Trotta, "I would say it is the confrontation of remembering and forgetting." This confrontation runs all through the film, mostly in the mind and memory of Juliane—played by Jutta Lampe, a leading member of the Berlin Schaubühne who also played the older sister in the previous film.

Sights, glints, deliberate recall hold

the various levels of the past on the frontier of the present. The museum of Baroque statuary, which is where the sisters must meet secretly at the beginning of the "present" story, epitomizes the unshakable presence of the past. The sternly religious home of their parents, with its immense sanguine painting of a crucified Jesus, contrasts with the casual quarters of Juliane and her lover. The films of Nazi atrocities that their father showed his parishioners in the church hall, which made Juliane so sick that she had to run out, underlie present states of mind. The fact that, when they were seventeen and sixteen it was Juliane who was the troublemaking rebel and Marianne her father's silky-haired, lap-snuggling pet, links with Juliane's work on a feminist magazine now and Marianne's much more intense rebellion, surging past her sister into terrorism. When Juliane visits her sister's prison, the color of a brick wall reminds her of a wall opposite their childhood home where she and Marianne used to practice handstands; yet they quarrel as much as they love during those prison visits. And this presence of the past culminates in Juliane's reaction after her sister's death.

FILMS WORTH SEEING

The Amateur. Superior political thriller, well written and made, well acted by Christopher Plummer, Marthe Keller, and John Savage. A CIA man, but not a regular field operative, goes into Czechoslovakia for personal vengeance.

Diner. Engaging and funny, if occasionally contrived and always sexist. Six Baltimore youths, 1959, "hanging out" together on the edge of maturity.

Diva. A lush and lovely thriller-romance, involving a Parisian moped messenger, a black U.S. soprano, a Vietnamese girl, and several killers. Exquisite and exciting.

Some Kind of Hero. A Vietnam P.O.W. returns to Los Angeles, gets shafted, turns criminal. Richard Pryor's serio-comic talents lift a so-so script into comic seriousness.

SK

"There'll never be another face like that," she sobs hysterically in the ambulance that has to be summoned to take her to a hospital from the prison morgue.

It certainly is an extraordinary face, Marianne's. Barbara Sukowa, who plays the role, is experienced in the German theater, principally in Hamburg and Munich, and has made two films for Fassbinder, not yet shown here. Her face is so lean as almost to be gaunt, but it is beautiful; she burns and commands. A special bow, too, to Ina Robinski and Julia Biedermann who play the two sisters at seventeen and sixteen, very acutely. The one member of the cast who seems to me more a fixture of New German Cinema than an impressive actor is Rüdiger Vogler—here Juliane's lover—who has been seen in many Wenders films, as well as others. Vogler doesn't resemble Bruno Ganz in the least, but I always feel that he's a vapid substitute for Ganz.

Franz Rath is again von Trotta's cinematographer, again using precise, reticent, but apt colors. The very first shot is of the gray wall of an apartment house, seen through bare trees. Silence. The camera pulls back, inside the apartment overlooking the courtyard. We hear steps as someone walks slowly back and forth; the low notes of a solo clarinet wind in; and colors begin to enter the gray shot as Juliane, in silhouette, moves past the camera. Thus we know a good deal about the tone of the film, the imagination and control of the director, within a minute.

Cinematically, the film is built with delicacy and strength. Example: Juliane and her lover are in southern Italy (Sicily?) when they see a photo of Marianne on the TV news. Juliane telephones home and gets word of the hanging. Her lover embraces her. Then there's a cut to a brief shot of the outside of the sun-drenched hotel before we go back to the pair inside. What we see for a second is so lovely that it underscores the disharmony in their lives, in our world.

But I must note two sequences that are much more Schlöndorff than von Trotta. When Juliane gets a sedative injection in the ambulance after seeing her sister's body, we're shown her nightmare—in red light—involving the bloody crucifixion picture in her parents' home and the stern father looking down from a Himalayan pulpit. After we hear of the near-murder of Mari-

anne's son, we see the horror in flashback. (The term is justified in this case.) Both of these sequences are heavy-handed and superfluous; they mar the general fabric of unforeseen necessities.

Traditional religion, including the duty that honest German clergymen feel to face the German past; the rivalries of two sisters for their father's love, as a possible psychological base for the younger one's later extremism and violence; the perplexities of a generation in

Germany that must face what the members of their generation must face everywhere but who also have the burden of that German past—all these course dynamically through *Marianne and Juliane*. Yet, because von Trotta is so fine an artist, almost nothing is handled clinically or polemically. We see these two sisters, as children and as young women, carrying within them the fundamental humanity that would make trouble even if the world around them were more kindly and sensible than it is.

MARK CRISPIN MILLER ON TELEVISION

Getting Dirty

We are outside a house, looking in the window, and this is what we see: a young man, apparently nude and half-crazed with anxiety, lunging toward the glass. "Gail!" he screams, as he throws the window open and leans outside, over a flower-box full of geraniums: "The most important shower of my life, and you switch deodorant soap!" He is, we now see, only half-naked, wearing a towel around his waist; and he shakes a packaged bar of soap—"Shield"—in one accusing hand. Gail, wearing a blue man-tailored shirt, stands outside, below the window, clipping a hedge. She handles this reproach with an ease that suggests years of contempt. "Shield is better," she explains patiently, in a voice somewhat deeper than her husband's. "It's extra strength." (Close-up of the package in the husband's hand, Gail's efficient finger gliding along beneath the legend, THE EXTRA STRENGTH DEODORANT SOAP.) "Yeah," whimpers Mr. Gail, "but my first call on J. J. Siss [sic], the company's toughest customer, and now this!" Gail nods with broad mock-sympathy, and stands firm: "Shield fights odor better, so you'll feel cleaner," she assures her husband, who darts away with a jerk of panic, as Gail rolls her eyes heavenward and gently shakes her head, as if to say, "What an idiot!"

Cut to our hero, as he takes his important shower. No longer frantic, he now grins down at himself, apparently delighted to be caked with Shield, which,

in its detergent state, has the consistency of wet cement. He then goes out of focus, as if glimpsed through a shower door. "Clinical tests prove," proclaims an eager baritone, "Shield fights odor better than the leading deodorant soap!" A bar of Shield (green) and a bar of that other soap (yellow) zip up the screen with a festive toot, forming a sort of graph which demonstrates that Shield does, indeed, "fight odor better, so you'll feel cleaner!"

This particular contest having been settled, we return to the major one, which now has to be resolved. Our hero reappears, almost transformed: calmed down, dressed up, his voice at least an octave lower. "I do feel cleaner!" he announces cheerily, leaning into the doorway of a room where Gail is arranging flowers. She pretends to be ecstatic at this news, and he comes toward her, setting himself up for a profound humiliation by putting on a playful air of suave command. Adjusting his tie like a real man of the world, he saunters over to his wife and her flower bowl, where he plucks a dainty purple flower and lifts it to his lapel: "And," he boasts throughout all this, trying to make his voice sound even deeper, "with old J. J.'s business and my brains—"—"you'll . . . clean up again?" Gail asks with suggestive irony, subverting his authoritative pose by leaning against him, draping one hand over his shoulder to dangle a big yellow daisy down his chest. Taken aback, he shoots her a dis-

trustful look, and she titters at him.

Finally, the word SHIELD appears in extreme close-up and the camera pulls back, showing two bars of the soap, one packaged and one not, on display amidst an array of steely bubbles. "Shield fights odor better, so you'll feel cleaner!" the baritone reminds us, and then our hero's face appears once more, in a little square over the unpackaged bar of soap: "I feel *cleaner* than *ever before*!" he insists, sounding faintly unconvinced.

Is all this as stupid as it seems at first? Or is there, just beneath the surface of this moronic narrative, some noteworthy design, intended to appeal to (and to worsen) some of the anxieties of modern life? A serious look at this particular trifle might lead us to some strange discoveries.

We are struck, first of all, by the commercial's pseudo-feminism, an advertising ploy with a long history, and one ubiquitous on television nowadays. Although the whole subject deserves more extended treatment, this commercial offers us an especially rich example of the strategy. Typically, it woos its female viewers—i.e., those who choose the soap in most households—with a fantasy of dominance; and it does so by inverting the actualities of woman's lot through a number of imperceptible details. For instance, in this marriage it is the wife, and not the husband, who gets to keep her name; and Gail's name, moreover, is a potent one, because of its brevity and its homonymic connotation. (If this housewife were more delicately named, called "Lillian" or "Cecilia," it would lessen her illusory strength.) She is also equipped in more noticeable ways: she's the one who wears the button-down shirt in this family, she's the one who's competent both outdoors and in the house, and it is she, and only she, who wields the tool.

These visual details imply that Gail is quite a powerful housewife, whereas her nameless mate is a figure of embarrassing impotence. This "man," in fact, is actually Gail's *wife*: he is utterly feminized, striking a posture and displaying attributes which men have long deplored in women. In other words, this commercial, which apparently takes the woman's side, is really the expression (and reflection) of an intense misogyny. Gail's husband is dependent and hysterical, entirely without that self-possession which we expect from solid, manly types, like Gail. This is

tory, these implications are actually quite congruous, for they both serve to emasculate the husband, so that the wife might take his place, or play his part.

Such details, some might argue, need not have been the conscious work of this commercial's makers. The authors, that is, might have worked by instinct rather than design, and so would have been no more aware of their work's psychosocial import than we ourselves: they just wanted to make the guy look like a wimp, merely for the purposes of domestic comedy. This, however, is unlikely. Ad agencies do plenty of research, by which we can assume that they don't select their tactics arbitrarily. They take pains to analyze the culture which they help to sicken, and then, with much wit and cynicism, use their insights in devising their small dramas. This commercial is a subtle and meticulous endorsement of castration, meant to play on certain widespread guilts and insecurities; and all we need to do to demonstrate this fact is to subject the two main scenes to the kind of visual analysis which commercials, so brief



PHOTOGRAPH OF SHIELD TELEVISION COMMERCIAL
BY SHEPARD SHERBELL FOR THE NEW REPUBLIC

partly the result of his demeanor: in the opening scene, his voice sometimes cracks ludicrously, and he otherwise comports himself with the shrill desperation of a man who can't remember where he left his scrotum. The comic effect of this frenzy, moreover, is subtly enhanced by the *mise-en-scène*, which puts the man in a conventionally feminine position—in dishabille, looking down from a window. Thus we infer that he is sheltered and housebound, a modern Juliet calling for his/her Romeo; or—more appropriately—the image suggests a scene in some suburban red-light district, presenting this husband as an item on display, like the flowers just below his stomach, available for anyone's enjoyment, at a certain price. Although in one way contradic-

and broad, tend to resist (understandably). The ad's visual implications are too carefully achieved to have been merely accidental or unconscious.

The crucial object in the opening shot is that flower-box with its bright geraniums, which is placed directly in front of the husband's groin. This clever stroke of composition has the immediate effect of equating our hero's manhood with a bunch of flowers. This is an exquisitely perverse suggestion, rather like using a cigar to represent the Eternal Feminine: flowers are frail, sweet, and largely ornamental, hardly an appropriate phallic symbol, but (of course) a venerable symbol of *maidenhood*. The geraniums stand, then, not for the husband's virility, but for its absence.

More than a clever instance of inver-

sion, furthermore, these phallic blossoms tell us something odd about this marital relationship. As Gail, clippers in hand, turns from the hedge to calm her agitated man, she appears entirely capable of calming him quite drastically, if she hasn't done so already (which might explain his hairless chest and high-pitched voice). She has the power, that is, to take away whatever slender potency he may possess, and uses the power repeatedly, trimming her husband (we infer) as diligently as she prunes her foliage. And, as she can snip his manhood, so too can she restore it, which is what the second scene implies. Now the flower bowl has replaced the flower box as the visual crux, dominating the bottom center of the frame with a crowd of blooms. As the husband, cleaned and dressed, comes to stand beside his wife, straining to affect a new authority, the flower bowl too appears directly at this lower center; so that Gail, efficiently adding flowers to the bouquet, appears to be replenishing his vacant groin with extra stalks. He has a lot to thank her for, it seems: she is his helpmate, confidante, adviser, she keeps his house and grounds in order, and she is clearly the custodian of the family jewels.

Of course, her restoration of his potency cannot be complete, or he might shatter her mastery by growing a bit too masterful himself. He could start choosing his own soap, or take her shears away, or—worst of all—walk out for good. Therefore, she punctures his momentary confidence by taunting him with that big limp daisy, countering his lordly gesture with the boutonniere by flaunting that symbol of his floral status. He can put on whatever airs he likes, but she still has his fragile vigor firmly in her hand.

NOW WHAT, precisely, motivates this sexless battle of the sexes? That is, what really underlies this tense and hateful marriage, making the man so weak, the woman so contemptuously helpful? The script, seemingly nothing more than a series of inanities, contains the answer to these questions, conveying, as it does, a concern with cleanliness that amounts to an obsession: "Shield fights odor better, so you'll feel cleaner!" "I do feel cleaner!" "Shield fights odor better, so you'll feel cleaner!" "I feel cleaner than ever before!" Indeed, the commercial emphasizes the feeling of cleanliness even more pointedly than

the name of the product, implying, by its very insistence, a feeling of dirtiness, an apprehension of deep filth.

And yet there is not a trace of dirt in the vivid world of this commercial. Unlike many ads for other soaps, this one shows no sloppy children, no sweat-soaked workmen with blackened hands, not even a bleary housewife in need of her morning shower. We never even glimpse the ground in Gail's world, nor is her husband even faintly smudged. In fact, the filth which Shield supposedly "fights" is not physical but psychological besmirchment: Gail's husband feels soiled because of what he has to do for a living, in order to keep Gail in that nice big house, happily supplied with shirts and shears.

"My first call on J. J. Siss, the company's toughest customer, and now this!" The man's anxiety is yet another feminizing trait, for it is generally women, and not men, who are consumed by doubts about the sweetness of their bodies, which must never be offensive to the guys who run the world. (This real anxiety is itself induced, or aggravated, by commercials.) Gail's husband must play

the female to the mighty J. J. Siss, a name whose oxymoronic character implies perversion: "J. J." is a stereotypic nickname for the potent boss, while "Sis" is a term of endearment, short for "sister" (and perhaps implying "sissy," too, in this case). Gail's husband must do his boyish best to please the voracious J. J. Siss, just as a prostitute must satisfy a demanding trick, or "tough customer." It is therefore perfectly fitting that this employee refer to the encounter, not as a "meeting" or "appointment," but as a "call"; and his demeaning posture in the window—half-dressed and bent over—conveys, we now see, a definitive implication.

Gail's job as the "understanding wife" is not to rescue her husband from these sordid obligations, but to help him meet them successfully. She may seem coolly self-sufficient, but she actually depends on her husband's attractiveness, just as a pimp relies on the charm of his whore. And, also like a pimp, she has to keep her girl in line with occasional reminders of who's boss. When her husband starts getting uppity *après la douche*, she jars him from



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the very self-assurance which she had helped him to discover, piercing that "shield" which was her gift.

"And, with old J. J.'s business and my brains—" "—you'll . . . *clean up again*?" He means, of course, that he'll work fiscal wonders with old J. J.'s account, but his fragmentary boast contains a deeper significance, upon which Gail plays with sadistic cleverness. "Old J. J.'s business and my brains" implies a feminine self-description, since it suggests a variation on the old commonplace of "brains vs. brawn": J. J.'s money, in the world of this commercial (as in ours), amounts to brute strength, which the flexible husband intends to complement with his mother wit. Gail's retort broadens this unconscious hint of homosexuality: "—you'll . . . *clean up again*?" Given the monetary nature of her husband's truncated remark, the retort must mean primarily, "You'll make a lot of money." If this were all it meant, however, it would not be a joke, nor would the husband find it so upsetting. Moreover, we have no evidence that Gail's husband ever "cleaned up"—i.e., made a sudden fortune—in the past. Rather, the ad's milieu and *dramatis personae* suggest upward mobility, gradual savings and a yearly raise, rather than one prior killing. What Gail is referring to, in fact, with that "again," is her husband's shower: she implies that what he'll have to do, after his "call" on J. J. Siss, is, quite literally, wash himself off. Like any other tidy hooker, this man will have to clean up after taking on a tough customer, so that he might be ready to take on someone else.

THESE SUGGESTIONS of pederasty are intended, not as a literal characterization of the husband's job, but as a metaphor for what it takes to get ahead: Gail's husband, like most white-collar workers, must debase himself to make a good impression, toadying to his superiors, offering himself, body and soul, to the corporation. Maybe, therefore, it isn't really Gail who has neutered him; it may be his way of life that has wrought the ugly change. How, then, are women represented here? The commercial does deliberately appeal to women, offering them a sad fantasy of control; but it also, perhaps inadvertently, illuminates the unhappiness which makes that fantasy attractive.

The husband's status, it would seem, should make Gail happy, since it makes her physically comfortable, and yet Gail

can't help but loathe her husband for the degradations which she helps him undergo. For her part of the bargain is, ultimately, no less painful than his. She has to do more than put up with him; she has to prepare him for his world of affairs, and then must help him to conceal the shame. Of course, it's all quite hopeless. She clearly despises the man whom she would bolster; and the thing which she provides to help him "feel cleaner than ever before" is precisely what has helped him do the job that's always made him feel so dirty. "A little water clears us of this deed" is her promise, which is false, for she is just as

soiled as her doomed husband, however fresh and well-ironed she may look.

Of course, the ad not only illuminates this mess, but helps perpetuate it, by obliquely gratifying the guilts, terrors, and resentments that underlie it and arise from it. The strategy is not meant to be noticed, but works through the apparent comedy, which must therefore be studied carefully, not passively received. Thus, thirty seconds of ingenious advertising, which we can barely stand to watch, tell us something more than we might want to know about the souls of men and women under corporate capitalism.

Reconsideration: Philip Roth's 'Letting Go.'

A POSTWAR CLASSIC

By JAMES ATLAS

To read a novelist's early work out of sequence, long after the distinctive voice of his maturity has become familiar to his audience, is a curious experience. The apprentice novel yields up—or so one imagines—evidence of what was to come, intimations of the mature style; with retrospective assurance, we detect the inhibitions, the literary influences, the concealment and occasional showing forth of themes that will dominate the later work.

Philip Roth's first novel thwarts this expectation. One would be hard put to identify the sources of Alexander Portnoy's notorious soliloquy in *Letting Go* (soon to be reissued in paperback by Farrar, Straus & Giroux). The triumph of *Portnoy's Complaint* is its untrammelled energy; the testimony that spills from Portnoy with such urgent eloquence preserves an illusion of randomness, of spontaneity, as if it really were a patient's confession to his psychiatrist (though it comes as no surprise to learn from Roth that he discarded four versions of the novel before discovering the Portnoy we know; after all, fiction is only supposed to *seem* spontaneous). *Letting Go*, on the other hand, could hardly be more deliberate. Densely de-

tailed, exhaustive in its depiction of character, elaborate, even laborious in plot, it has none of the verve and élan that animate the later novels, but unfolds with a Jamesian stateliness that belies its author's youth. Published when Roth was only twenty-nine, this first novel is a work of awesome maturity. The world it brings to life is so various and thoroughly imagined, the narrative strategies it employs so sophisticated, that a reader new to Roth would have no idea where it belonged in the chronology of his work.

Still, there are youthful touches in this dauntingly precocious novel. Like the stories in *Goodbye, Columbus*, Roth's literary debut, *Letting Go* displays a well-mannered reticence characteristic of beginning novelists. Roth himself has often expressed impatience with the novel, declaring it in various interviews "a devoted effort at self-removal and self-obliteration" and a work excessively preoccupied with "conscience, responsibility, and rectitude." And by the standards of the freewheeling, exuberant books that followed, this conscientious novel is perhaps overfastidious, "literary"—a pejorative word in Roth's vocabulary, implying as it does a slavish devotion to certain inherited notions of what literature should be. But the novel is adventurous in its own way, even if the narrative voice is subdued. The ingenious shifts from first person to third,

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the chapters assigned to a single character, the Joycean internal monologues (including one by a nine-year-old child): these hardly constitute obedience to convention.

IF 'LETTING GO' is an apprentice work in any way, it is in the attitude toward ethical responsibility that Roth elsewhere disparages for its solemnity. Both Gabe Wallach and Paul Herz, the two young men whose sober lives are chronicled in the novel, could hardly be more serious about their obligations. Sacrifice is to them what liberation was to the 1960s: a means of achieving selfhood, identity. With joyless perseverance, they submit to the wishes of others and suppress their own, obey laws visible only to themselves—all in the belief that such willed renunciations constitute evidence of their maturity. Paul's quest for what he calls "manliness and dignity" prompts him to marry because he feels he ought to; to quit school and go work in a Detroit automobile factory; to give up his literary aspirations and consider becoming a high school teacher. The grim, cramped existence he sentences himself to is a form of secular ordination: You promise to deny yourself pleasure? Then today you are a man.

Gabe is to all appearances a more independent character than Paul; he comes from a wealthy home, isn't tempted by marriage, seems unwilling to settle on a vocation. But he turns out to be just as determined upon a course of self-denial. When his father, a widowed dentist, implores him to come home for Thanksgiving, he goes home; when Martha Reganhart, the woman in his life, invites him to move in with her, he moves in; when Paul and his wife Libby involve him in their troubled marriage, he ends up negotiating for them in every crisis—meanwhile suppressing his own intermittent passion for Libby. "That the Herzes' lives were often more threatened than my own," he notes ruefully, "had led me on occasion to believe that their lives were also more serious than my own." Like Paul, Gabe labors under the conviction that by turning away from what he wants he is somehow demonstrating control over his own life.

In a way this acquiescence to ethical claims is a form of self-assertion. Paul's infuriating passivity is an effective weapon against a family that wanted him to be a lawyer, marry a Jew (which

Libby isn't), and live in Brooklyn. By doing what he imagines to be the right thing and making his life as drab as he can, he manages not only to punish himself but to disappoint his parents' expectations. Paul's rebellion is to spoil his life.

Where Paul is passive, Gabe collects obligations with a certain angry defiance, as if to prove that he has no choice. "He had tried to be reasonable with everyone—but the demands made upon him had been made by unreasonable people," he broods. "So on the one hand he still believed himself put upon; on the other, he saw—or was willing to see—where he had not been savage enough." But savagery is beyond this well-meaning young man, who ministers to the needs of others in order to justify himself.

Of course, Gabe and Paul aren't the only ones who fail to consult their own interest. Libby flirts with Gabe, then pushes him out of her life; Martha rejects a bland, well-meaning suitor, only to marry him later on. Compromise is endemic in *Letting Go*, thwartedness one of the novel's dominant motifs. Roth's characters justify their failures of nerve

by convincing themselves that sacrifice has a moral component; doing what they ought to do means doing the right thing. Fulfillment, happiness, freedom: these are simply not goals for Gabe Wallach or the Herzes. Portnoy can scream and protest all he wants about how much he's oppressed; the characters in *Letting Go* find in self-denial proof of their virtue. There is an almost Catholic piety in Paul's martyrdom, in Libby's willed enthusiasm for the life of austerity to which that martyrdom has sentenced her. (But then, Libby is a Catholic.) And Gabe is in his own way just as timid as Paul, suppressing impulses he scarcely understands in order to be the dutiful son, the loyal friend. Embroiled in the Herzes' efforts to adopt a child, he vows:

He would not depart until he had a definite commitment about the future; he would depart in a dignified fashion, affairs in order. He was not the kind of man who could walk off a job, whatever the extremes of depression led him to believe about himself.

Manliness again, in the guise of sacrifice.

For Roth's later protagonists, such im-

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pulses are to be fought at whatever cost. The challenge before Portnoy, Peter Tarnopol in *My Life as a Man*, and David Kepesh in *The Professor of Desire* is to rid themselves of the inhibitions and restraints imposed on them by various forces: parents, women, the Jewish community, the literary tradition—whatever stands in the way of their desires. And they've achieved a certain distance from their past. Tarnopol introduces his story with the subtitle "Courting Disaster (or, Serious in the Fifties)"; writing from the vantage of the 1970s, when the earnest young scholar depicted there has long since given way to the vociferous, uncontrite "man," he can afford to be ironic.

But *Letting Go* was written from within that era, when irony was a literary term, not an attitude toward experience, and when literature was more authentic than life. "My own connection with the world of feeling," Gabe confides, "was not the world itself but Henry James." Indeed, James is often invoked in this novel; his sophisticated Continental dramas are meant to serve as a counterpoint to the unromantic American scenes in which they're discussed. Driving Libby to where Paul's car has broken down by the side of an Iowa highway, Gabe finds himself debating the fine points of *The Portrait of a Lady*; and many hundreds of pages later, when he calls on Martha Reganhart in her Hyde Park boardinghouse after they've gone their own ways, the Master comes up again. "He's virginal," Martha complains. "It seems to me that people live more openly with their passions." (However naive as literary criticism, her objection is a shrewd indictment of Gabe, whose cautious nature has done as much as her unconfessed but urgent needs to spoil things between them.)

IN BOTH SCENES, the talk of James nearly ends up with the characters in bed. Having made a clever observation about Isabel Archer, Gabe takes in Libby's response: "It was as if I had touched her." And the later discussion of James culminates in a brief struggle between Gabe and Martha when he makes a pass at her. Literature has been put to worse uses, but what a far cry these oblique come-ons are from Portnoy's hectic sexual transactions or the adventures of David Kepesh and his two Swedish girls. Gabe is hopelessly conscience-bound, unliberated; his near-seduction

by a waitress causes him such anguish one would think he had actually succumbed:

I sat down in my bent-laminated-wood chair and tried to find sense in the lust that had so recently visited me, in the desire I had not willed, wanted, or satisfied. I contemplated the desire as though it were the act itself . . . I looked for sense, I looked for cause.

And when, having moved in with Martha, he invites Paul and Libby over for dinner, it is in order "to submit evidence of an ordered carnality and a restrained domestic life"—the sort of life depicted in the novels of Henry James.

UNLIKE THE protagonists of Roth's later novels, who are always protesting the discrepancy between the great themes of literature and their own sordid experience, Gabe is still a prisoner of his own limited ideas about the world. "This is life, bozo, not *The Golden Bowl*," the harried Peter Tarnopol exclaims in *My Life as a Man*, tormented by his maniacal wife. The more independent Roth's characters become, the more they resent their literary elders, who failed to instruct them in the brutality of life. Why didn't you tell me it would be like this? is their criticism of literature. But Gabe is afforded no such revelation, and only toward the end of *Letting Go*, when he begins to weary of his obligations, does it occur to him that his faith in culture and civility has condemned him to a kind of innocence: "Tenderness, grace, affection: they struck him now as toys for which he had set about to hammer away at mountains." Challenging the ethical imperatives that have ruled him, he wonders if the impulse to "tidy up certain messy lives" has been a way of avoiding conflict in his own. But instead of heeding these insights, he drowns them out with a litany of chores—"applications to make out, a wedding present to buy for his father." *Letting Go*, despite its title, is a novel about holding on.

For all his moneyed privilege and vitality, Gabe is a curiously vulnerable figure. Like many of Roth's inconstant characters, he is wary in his pursuit of women, and lonely much of the time; a lack of encumbrances, it turns out, is no better a guarantee of happiness than a guilty accumulation of burdens. There is a wistfulness about him, a longing for the world Flaubert had in mind when,

contemplating the pastoral tableau of his niece and children on a picnic, he declared: "*Ils sont dans le vrai*." Leaving the home of Paul's childhood friends Doris and Maury, a numbingly conventional couple, Gabe enviously remarks upon Maury's "satisfaction and contentment," his smug self-confidence: "How did he do it? What was the solution?" The questions are posed with more humility than sarcasm.

TO BE VULNERABLE is to tempt condescension; we hold contemptible in others what we fear in ourselves. Yet Roth is unfailingly sympathetic toward his needier characters, and even manages to make vulnerability an attractive trait—especially in Martha and Libby, to my mind the most fully imagined women in all of Roth's work. Libby's excitable sensitivity, her flustered self-deprecation and tearful flurries of defiance perfectly dramatize her confusion. Drawing out her interviews with social workers and psychiatrists, Roth gets just right the martyred eagerness to please that can so easily turn to resentment, the self-sacrifice that verges on self-righteousness. For Libby is an accomplice in Paul's schemes to reduce himself, to narrow down his choices; and when, like every other character in the book, she passes up opportunities to change her life, she manages to convert those lost opportunities into feeble triumphs.

Martha, a version of the cocky, self-confident women who turn up in Roth's fiction from time to time, is more thrustingly vehement than Libby, but inwardly just as insecure. She radiates an assurance that Gabe, so unsure of his own feelings, finds attractive; she manages a difficult life—working the night shift as a waitress, looking after her two children—with stubborn cheer, and cultivates an emphatic, breezy manner. Only gradually does her self-doubt emerge, in bursts of poignant assertiveness designed to conceal the intensity of her need. When Paul and Libby show up for dinner, she flounces in with a "gaudy voluptuousness" that spoils the effect of domesticity Gabe has labored to create. Yet Roth, however pitiless his scrutiny, never makes her seem less than dignified. Indeed, she comes off a good deal better than Gabe, who can never quite reconcile himself to losing her and unfairly challenges the practical if timid decision she's made to marry someone else.

One can sense reading this novel by an author who mastered the art of character before he was thirty years old how hard Roth worked to give Martha depth and resonance. There is a leisurely pace, even a long-windedness to her scenes—the arguments with her children, the endless negotiations with Gabe—that enables us to know her entirely through the intonations of her speech. Roth's gift for dialogue is astonishing; he can invent a voice and reproduce it endlessly, no matter whose it is. The later novels, dominated by the confiding, eloquent soliloquies of his first-person narrators, tend to slight other characters on occasion, but in *Letting Go* Roth lavishes attention on everyone: the slack-jawed waitress whose baby the Herzes try to adopt; her loutish husband, an unemployed steelworker; John Spigliano, the pompous chairman of the University of Chicago English department, who pronounces Don Quixote with a hard X and condescends to "creative writers." Lengthy scenes are devoted to these marginal figures, scenes that would drag were it not for the sheer literary stamina by which Roth manages to sustain them.

INDEED, what is so impressive about *Letting Go* is its crowdedness, its nineteenth-century sprawl. None of Roth's books displays a greater diversity of types and situations. And by concentrating on two families, he gives himself the opportunity to consider two distinct classes of American Jews: the lower-middle-class Brooklyn of the Herzes and the bourgeois Central Park West milieu of Dr. Wallach. Paul's father, a failed businessman who idles away his days in a Barcalounger brooding about his bowels, is an early version of Portnoy's father, an insurance salesman who suffers from the same affliction; his uncles, the sentimental, platitudinous, neurotic Jerry and the foul-mouthed Asher, a painter who imagines that his aging mistress and grimy studio qualify him as a bohemian, are in another world from the rich doctors and accountants gathered in Dr. Wallach's spacious apartment on Thanksgiving.

Not that the prosperous dentist fares much better. A fatuous character prone to philosophical discussions of dentistry and contrived ethical debates, he garbles quotations from Wordsworth, attributes the authorship of *Oedipus* to Socrates, refers to *Recollections of Things Past*. But Roth's impatience with this

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pompous father is tempered, as it so often is where fathers are concerned, by affection for that older generation, so naive yet so sure of its own values. Toward the close of Thanksgiving dinner, when the lonely widows and widowers have begun to get a sorrowful look in their eyes, Gabe suddenly experiences "a general giving in, an uncomplicated and unconditional surrender" to nostalgia for that world—a world that does have its comforts after all. And when he goes off to Brooklyn that night on a mission to Paul's family, the people he encounters there elicit an uncharacteristic snobbery. Paul's high school girl friend, Doris, in whose accent he discerns "the borough of her birth winding down through the faint arch of her nose"; her husband Maury, "a wide blubbery man with a jovial, self-pitying face" and trousers "the watery pastel color of some fruit-flavored popsicle": they have nothing in common with him, Gabe assures himself, rehearsing his attainments—"my garb, my prosperity, my Harvard tones."

Letting Go is a dauntingly formal work; its narrative strategy—what Gabe's colleague Spigliano would call its "form and structure"—is to move from one character to the next, supplying their biographies and chronicling their lives in the third person, yet from within, by means of internal monologues. (Gabe, the character closest to Roth, is given chapters in both the first- and third-person.) In assigning his major characters chapters of their own, Roth avoids the monotony a single narrator can induce and creates a shifting network of points of view—a strategy that contributes to the novel's astonishing variety.

Nothing is left out of *Letting Go*. The sense of place is evoked with a tireless eye for detail, from the drab barrack dorms of Iowa City to the grim Detroit boardinghouse where Paul and Libby hole up for one disastrous winter; from the faded elegance of a Sag Harbor summer home to the ravaged industrial wasteland of Gary, where "the dwellings went on and on, as did the aerials hooked to the roofs, until blocks away the weather blurred the wires and rods, leaving what might have been ancient writing, hieroglyphics, illegible markings in the winter sky." And Hyde Park, Saul Bellow's turf, has never been more vividly portrayed than it is here (though Scott Spencer came close in *Endless Love*). With the patience and en-

thusiasm that perhaps only a novelist just starting out can have, Roth applies himself to that dowdy academic neighborhood, evoking its grim urban landscape in every season: fresh in summer, when electrical storms rolled in off Lake Michigan and left the campus "smelling like the country . . . with the trees damp and full and glittering in the early moonlight"; snow-clogged in winter or drenched in freezing rain that gave the streets "a black sheen, like the backs of animals."

The worlds depicted in this novel may seem cheerless and old-fashioned at times, just as the social and ethical constraints under which Roth's characters labor may seem, in the postliberalized 1980s, to belong to a remote era, an era when moral compulsions one scarcely understood could determine the course of one's life. But those compulsions hardly died out when President Eisenhower left office. They were

just more openly resisted, with the impassioned, willfully hedonistic protagonists of Roth's later novels in the vanguard. As it happened, the freedom they seized with such urgent zeal was to prove no less traumatic than the prohibitions imposed on the characters in *Letting Go* by family, custom, community—as Portnoy discovered when he sought to defy the stultifying beliefs and attitudes that had been crammed into his head.

Letting Go is a precursor to these novels, a symptom of Portnoy's complaint. But only in terms of chronology is it an early novel; as literature, it is one of Roth's maturest achievements, and deserves to be classified with William Styron's *Lie Down in Darkness* and Norman Mailer's *The Naked and the Dead*, those other celebrated works by novelists then still in their twenties, among the masterpieces of postwar American literature.

JUDICIAL REVIEW

A Common Law for the Age of Statutes by Guido Calabresi

(Harvard University Press, 319 pp., \$25)

Judges have always believed that the law is too serious a business to be left to legislators. For centuries the common law reigned as a body of rules and principles declared and expounded by the courts, hardly dented by the impact of statutes. When the occasional piece of legislation came along, judges and attorneys alike viewed it with distaste as if it were a threatening parasite. Courts fashioned rules of construction to the effect that statutes should be interpreted as changing the common law only to the narrowest possible extent. Sometimes the common law became almost an object of idolatry. Lord Mansfield, lord chief justice in England in the eighteenth century, had a vision of the law "working itself pure from case to case," and Maitland, the great nineteenth-century legal historian, referred with reverence to "our Lady the common law."

But the early nineteenth-century trickle of statutes broadened into a lava

stream, carving out new legal continents and shrinking the territory of the common law to a few paltry islands. This volcanic transformation of the legal landscape erupted from the raging need of a commercial and industrial society for infusions of supervision and regulation that the common law could not supply. Common law was perfectly suited to resolving the comparatively simple claims of individuals against one another for compensation for batteries and trespasses or the negligent infliction of injury. It even managed well enough with simple contractual situations. But by its nature, judicial lawmaking is primarily receptive. It must await complaints and then adjudicate them as justly as possible. When large-scale intervention is called for, courts are not well adapted for the task.

The creation of a health insurance plan, the regulation of air travel, the massive detail of a national system of income taxation all demand informa-

tion, inquiry and planning, administrators, offices and committees, on a scale that courts cannot and should not command. As legislatures and executives in the twentieth century have multiplied their efforts to meet such needs, even conventional statutory legislation has proved quite inadequate, and the daily diet of much law practice has become the regulations produced by various commissions and boards under the distant tutelage of some Congressional or state statute.

REGULATION AND government intervention were hardly unknown before the 1930s, but they took enormous impetus from the New Deal and so became indelibly associated for many with images of hope and revitalization. At the same time, the Supreme Court's ill-judged and ill-fated attempt to bar the path of the juggernaut cost courts much of their esteem. Judges and all they stood for, it seemed to many, were clearly of and for the past. It was legislation and regulation that gave people jobs and made us well again.

This blend of truth and myth is in turn yielding to a tale more suited to the times. Now, some will tell us, regulation has run amok. Business chokes under festooning legal restrictions; legislatures are overworked or idle (depending on the version) and cannot keep up with the job of adapting statutes to changing conditions and needs. Commissions and public boards may be paralyzed by routines or innately conservative, interested above all in perpetuating their own bureaucracies, so that we are plagued with the old problem of finding guardians to watch the guardians. There is considerable agreement that we need more efficient ways to uproot obsolete legislation and inappropriate regulations.

Guido Calabresi, a law professor at Yale, has examined this question with much refinement and urges a turning back to the courts as the most suitable institution for abrogating or modifying unacceptable legislation. This looks like a formidable proposal, turning the world upside down by setting courts above the legislature, where they never should be in a democracy, except when a question rises to constitutional stature. Yet those who are familiar with the present climate of legal philosophy will not be at all surprised by Calabresi's theme. For if the common law was reeling on the ropes a few decades ago, it

has received a marvelous between-the-rounds transfusion and is now counter-punching with gusto.

American jurists have always been obsessed with the act and art of judging, while the English (sitting around the very rim of the common-law fountain) have been much less preoccupied. The difference is easily explained. The power of judicial review assumed by the Supreme Court to veto legislation on constitutional grounds, the varying developments of the common law in the different states of the Union, and the franker style employed by American courts combined to make the creative lawmaking power of judges much more conspicuous in the new world. At times this has led to cynicism and the suspicion that we are at the mercy of the moods and prejudices of individual judges, but of late American jurisprudence has turned again to honoring the role of the court and the tradition of the common law, and it is from this renaissance that Calabresi's book derives.

Writings of American jurists such as Lon Fuller and Ronald Dworkin have stressed the importance of reasoning

from principles and policies in the development and application of the law and have shown how these principles merge into the general stock of moral standards that imbue the life of the community. The historic mission of common-law judges is to cogitate over these principles and policies, to refine the best understanding of them, and to conform the application of the law to this understanding. We have rediscovered the grand design and judges appear again, much as Blackstone viewed them, as the "living oracles" of the law. The common law is seen as a *Volksrecht* expressing a *Volksgeist*; if the area where it governs unalloyed has shrunk to a small bite in the huge legal surface, yet its technique of working with principles is also recommended as the best technique for working on statutes and regulations.

What powers exactly would Calabresi confer upon the courts that they do not now enjoy? He does not propose a broadening of the power to nullify statutes on constitutional grounds. Indeed, he argues that if courts had a more modest way of flagging obsolete stat-

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utes they would be driven to swing the sledgehammer of constitutional veto less often. But at present the "burden of inertia" with respect to enacted laws is imposed by the legislature or the administrative agency. Once a law is passed it will remain in force until the legislative body is energetic enough to reconsider it. By permitting courts to nullify or modify laws that they find obsolete or inappropriate, Calabresi would allow them to switch this burden and to confront the legislature with the task of reimposing the challenged statute if it wished. The court's power would not be one of final nullification, but only to decide whether to apply a "retentionist or a revisionist bias to an existing rule."

Given the influence of courts and the labyrinthine tracks of legislative passage, the power would nevertheless be of great significance. Calabresi rightly points out that courts may even now do a great deal with legislation that they

find to be perverse or obstructive of rational outcomes. The court's response may range from broad "purposive" interpretation that puts great strain on the language of the statute to a doggedly mechanical interpretation that underscores the absurdity of the legislative impact in the hope of goading the legislature into reform. *In extremis* a court may find the statute unconstitutional or hint broadly that it will soon get to this point if the legislature does not act. Yet nothing in present doctrine or practice concedes the power of the courts to abrogate legislation on less than constitutional grounds.

In spite of this, Calabresi claims that his proposal is deeply conservative. Other modes of dealing with legislative inertia in the face of obsolete regulations would, he contends, turn out to be much more radical. We could try to streamline Congressional and state legislative procedures to bring them closer to the leaner style of the British Parlia-

ment or some European legislatures. Calabresi is surely right in contending that this would be a sharp break with American history and tradition, which have constituted and evolved arrangements designed to make the legislative process very complex in the interest of a separation of powers and a "retentionist bias."

but suggests that in each case the question would involve a rich and subtle consideration of the whole "legal topography" of the area under review. This might entail, among other matters, the age of the statute, whether it has largely fallen into disuse, whether the original rationale has eroded, whether other rationales can now be perceived, how the statute sits alongside other statutes and regulations in the field, how it sits with general legal principles and with constitutional standards, and so forth. In effect this means that courts should treat statutes as they have always treated rules of common law—as being perpetually up for repainting, renovation, or dismantling.

Calabresi's greatest hurdle is to establish the legitimacy of courts to wield such power. Americans have never been altogether easy even with the familiar power assumed by the Supreme Court to strike down legislation as unconstitutional. Within the last year two major law reviews have devoted entire issues to symposia on the theory of "judicial review." Under Calabresi's proposal, judicial review, though concededly with a more modest impact, would be enormously extended in reach. It is here, faced with his toughest challenge, that Calabresi's book is at its best, drawing on modern legal philosophy and contributing many fresh insights to argue subtly for the propriety in the American tradition of giving such power to the courts. But he is not wholly convincing.

It is true that judges are molded by and must work with general principles of the common law; it is true that they can only decide case by case and are subject to criticism from their colleagues and to reversal by higher courts; it is true that judges are for the most part cautious by training and would be unlikely to use the new power brashly or frequently. Courts may be, for these reasons, as Hamilton wrote, the "least dangerous" branch of government, but these soothing observations do not answer all questions or allay all doubts.

FIRST, it is not clear how serious a problem is presented by obsolete statutes and regulations. Calabresi does not address himself to this; indeed his book is largely unsullied by examples. Even if there is a problem of some dimension, it is not clear that courts are well suited to deal with it. Courts could

THIRTEEN-YEAR-OLD GIRL

In Ohio or Indiana today or yesterday
a thirteen-year-old girl hears
"Be My Baby" by the Ronettes (1963)
on the radio and gets
a look in her quick eyes—
"be my baby now. . ." She feels
a world of people out getting, getting,
people with definite needs for certain feelings in certain
other people—how stupid! How unwise:
they all have that energy like a virus
and they strive up and down every street with it—
"teenagers" "sweethearts" "going steady" "going out"
"a college man" "co-eds" "she's seeing him"—
to get a special power over a member of the opposite sex
like a mother's over her infant or
a little girl's over her doll. Crazy;
but they keep at it every week forever—
all the songs say so—
and she feels them enacting her own striving future.
"So dumb," she mutters; she turns off her radio
and moves to her bedroom window.
Last year on her birthday she and Molly giggled
wildly, supremely, over certain ads in *Mademoiselle*.
But today the Ronettes, though dumb, are not funny.
From an icy limb a sparrow jumps
with odd alacrity into the sober March sky
over Chip Newsom's house; and
years later, when some guy is acting like a fool
the girl will remember this cold day, with
"Be My Baby" and the sparrow taking off
as if it knew just what it was doing.

MARK HALLIDAY

not embark on a considered, programmed review precisely because they are rightly confined to the specific questions presented by litigation. Other, more systematic ways of reviewing legislation and regulations are conceivable. Calabresi considers them and concludes that the courts are preferable, but he may dismiss some of them too lightly. The creation of standing law revision committees independent of the legislature but charged with the duty of surveying areas of law and armed with statutory powers to place matters on the agenda of legislatures, commissions, and committees is an option that deserves to be explored further. Such committees would have a breadth of perspective, resources for research and consultation, and the power to assign their own priorities that courts lack.

ALTHOUGH HE denies that he is motivated by nostalgia, it may be that Calabresi is in danger of swooning into a "Brideshead-revisited" kind of enchantment with judges and the common law. American law professors, usually the product of elite law schools, are often marked by nothing so much as the unforgettable experience of their judicial clerkships with judges of the Supreme Court or other federal appellate courts. Carrying this aura of grace around with them (Calabresi quotes the pedestrian remarks "his" justice made to him as if they were the Sermon on the Mount), they have difficulty perceiving whole sectors of the legal universe outside the business of judging. They may even forget the more disastrous and shameful episodes in the history of the common law.

In the nineteenth century, common-law judges were for the most part the apostles of the employers. Among other atrocities, they established the doctrine of "common employment," which declared that one workman could not sue his employer for an injury caused by the negligence of a fellow workman. Statutes were necessary to overturn this monstrous rule. Common-law judges also decided that the dependents of a dead person could not sue a negligent defendant (often a wealthy corporation or entrepreneur) who had caused the death. Again, statutes were necessary to overturn this rule. Should such statutes have been handed over to the mercies of people whose neglect of justice and narrow fidelity to class interest made their passage necessary? We cannot keep

judges from interpreting statutes, but should they be able to veto them for topographical unsightliness?

Calabresi would give American courts a position comparable with that of the House of Lords in Britain, which can delay legislation and force the House of Commons to take a "second look." But there is one great difference. The House of Commons is relatively efficient and comparatively swift and will take that second look. Given the crippled snail's pace of American legislatures, the power that Calabresi's pro-

posal would confer on courts would come close in practice to a veto. His elegantly argued book will open a large debate, but it may not convince us that we should contemplate the silent elevation of our judges to an American equivalent of the peerage.

GRAHAM HUGHES

Graham Hughes is professor of law at New York University and author of *The Conscience of the Courts* (Anchor Press: Doubleday).

MAN OF MASKS

Tolstoi in the Sixties
by Boris Eikhenbaum
translated by Duffield White
(Ardis, 255 pp., \$25)

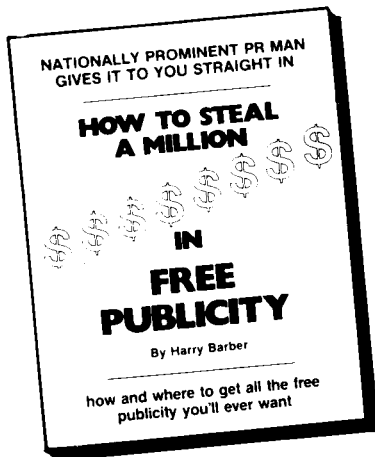
Tolstoi in the Seventies
by Boris Eikhenbaum
translated by Albert Kaspin
(Ardis, 174 pp., \$22.50)

The publication of these two books is an important event for everyone interested in Tolstoy, and for many others interested in the theory of literature. Boris Eikhenbaum (1886-1959) is already known to the latter as one of the leading Russian Formalists, that group of aestheticians who revolutionized literary theory in Russia between 1915 and 1930—and in other countries since then. But he was also a Tolstoy scholar. Of the more than four hundred items in his bibliography, well over sixty refer to Tolstoy, according to his latest translator, Albert Kaspin. His first such articles appeared in 1919, and he kept on writing about Tolstoy until his death forty years later.

Of book-length works, *The Young Tolstoi* (1922) was followed by a large project, which Eikhenbaum intended to call *Lev Tolstoi*. The first volume is now sometimes called *Tolstoi in the Fifties* (1928) and the second and third are these volumes, now translated into English. They were published in Russia in 1931 and 1960 respectively. *Tolstoi in the*

Seventies had been finished before the war and set in type, but the type was destroyed in the bombardment of Leningrad. Eikhenbaum reconstituted the manuscript later, but he could not do the same for a fourth volume, about Tolstoy in the 1880s, which was lost in March 1942 when Eikhenbaum was evacuated from Leningrad.

Perhaps that volume too might have been re-written but for another kind of interference by history. The Formalists had been harassed by the literary apparatus from the beginning, and pure formalism was in effect taboo from 1930. The Party theory of literature, and its practice of exerting control, was inimical to these brilliant intellectuals. Eikhenbaum found ways to survive, but in 1949 he fell into disfavor for failing to "overcome the fallacious methods of Formalism and of bourgeois literary criticism"; and he was more or less silenced until 1953. There is some irony in the role politics played in Eikhenbaum's work, for one of his major theses about Tolstoy was that he had used poli-



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tics to "motivate" the strategies of his literary career—that Tolstoy's dramatic interventions in public life, and interruptions of his fiction-writing, including his conversion to Christian values around 1880, were devices that worked to give him something new to write about, and to give other people new reasons to talk about him. In Eikhenbaum's own experience, life intruded upon his work in a way it would be hard to regard as a "motivation."

HE ARGUED this thesis directly in an essay of 1929, and these two books bear only traces of it. (For example, he describes Tolstoy's beliefs as well as his actions as "strategies" or "tactics.") Indeed, by the time he wrote these works, Eikhenbaum was no longer a Formalist in any pure sense. These volumes are works of literary history, though of a special and brilliant kind. Eikhenbaum is demonstrating "literature's social mode of being"—the boundary lines that connect it with and separate it from other modes of discourse, such as history, pedagogy, and political polemic. Eikhenbaum describes the contemporary state of opinion and the direction of feeling on some of Tolstoy's main topics and motifs; for instance, in a particularly fine chapter he tells us about the widespread imaginative interest in horses at the time Tolstoy wrote his horse story, "Strider."

His formalism is therefore expressed obliquely here, and the conventional decorum of literary studies—the critic's reverence and support for the man he is writing about—is not disturbed. Indeed, one feels that Eikhenbaum understands Tolstoy's personality sympathetically and is alive to all the nuances of his writing. But of course as a Formalist he is basically hostile to Tolstoy the moralist, which is to say, Tolstoy the presenter of his own work. The Formalists were the direct descendants of those aesthetes whom Tolstoy attacked in *What Is Art?* in 1898. And one element in Eikhenbaum's work even here is the persistence of his original iconoclasm. "We have made an icon of Tolstoy," he said in his first article on the subject; and he promised to "liberate" the real Tolstoy from the icon-painting of literary historians, which was a discreet way of saying from Tolstoy himself. He would show that Tolstoy was really a wonderful writer, who pretended to be something more—pretended not to be a writer. He would exorcise his nine-

teenth-century moralism. Mutatis mutandis, this essay was a Russian equivalent of Strachey's *Eminent Victorians*.

Since I am a Tolstoyan in a simpler and more wholehearted sense than Eikhenbaum, I take a different view. He quotes an important letter on the subject of art which Tolstoy wrote to his friend Strakhov on March 25, 1872 (after *War and Peace*, before *Anna Karenina*), about his disgust with the elaborate language and structures of "literature," and his preference for simpler forms and more direct truths. But let me preface the quotation by reminding you that "Russian literature" began only with Pushkin, in the generation immediately before Tolstoy's; the question of literature's right-to-life was therefore a more existential one for a Russian writer in 1872 than it could be for any of our ancestors. In the letter, Tolstoy wrote:

But we must descend, and go down lower, where it will be safe. And again, by chance, this *down lower* is where the people are—*Poor Liza* [Karmazin's sentimental tale] squeezed out tears, and it was praised, and you know that no one reads it any longer—but the songs, tales, epic poems—everything that is simple will be read as long as there is a Russian language. . . . I have changed the devices and the language of my writing, but, I repeat, not because I decided that it was necessary to do so. But because I find even Pushkin ridiculous. . . .

Eikhenbaum's comment on this is that Tolstoy's decision to give up "literature" was "prompted by purely literary, artistic, requirements. . . his new artistic principles naturally ('by chance' in this sense) coincided with the principles of folk poetry. . . ." But I think Tolstoy was reacting *against* purely literary, artistic requirements; I think Tolstoy meant what he said. Eikhenbaum rejects that possibility—no doubt because of the threat it poses to his own life in art.

He has a long sequence on the epigraph to *Anna Karenina*, which is to me unintentionally comic. The epigraph is "Vengeance is mine, saith the Lord," which Tolstoy always said was to remind the reader that the heroine was punished for having broken God's law. Eikhenbaum describes the attempts of Russian men of letters to persuade Tolstoy to assent to some more liberal and imaginative reading—persuasions Tolstoy always rejected. But after telling us this story, Eikhenbaum goes on to propound his own, yet more ingenious in-

terpretation, as what Tolstoy must have really meant.

However, his tendentiousness does not inhibit Eikhenbaum's impressive understanding of Tolstoy at almost every turn of his purely literary career, and at many turns of his personal relations. Tolstoy was, even I admit, a profoundly ambitious man, in his late phases as well as his early ones. He wrote to his cousin toward the end of his life that as a young man he had wanted to make himself the strongest man in the world, and now he wanted to achieve the best death in the world. When his wife said his Christian sufferings were all for the sake of glory, she was not wholly wrong, as Tolstoy himself acknowledged. But she was not wholly right, and what do we do about that? This is the challenge he put to her and us: what about the jagged vein of genuineness—what about the gleam of gold in the fracture? No doubt Tolstoy used his brilliant egotism as a magnifying lens, to focus our attention on his sense of sin, but must we look only at the lens, and never through it?

Tolstoy was certainly a highly ambiguous personality. He did not settle on even preliminary self-definitions until he was twenty-five, and he could make himself feel almost any emotion—except of course that he was very skeptical about what he said he felt, as about what other people said they felt. Eikhenbaum is a good guide to many of those complexities. One of his words for Tolstoy is "archaist," meaning that he refused to identify himself with any of the ideas or models in the life around him, but went back to earlier times and other places. In

the 1850s, for instance, he was learning to write from eighteenth-century Englishmen, Frenchmen, Americans—Sterne, Rousseau, Franklin.

I would even admit that Tolstoy's models were used so freely and inventively that one could call them (as his wife did call them, in her fury) disguises or masks. For instance, Tolstoy

like Voltaire or Frederick the Great, with a bright sardonic eye and a harsh voice emerging from bunched-up little features, all willpower and intelligence; and that portrait was drawn from Tolstoy's grandfather, whom he was said to resemble. So we can see the Tolstoy of the great novels as a Voltaire wearing a Rousseau mask—in many places in his diaries as well as in his novels. He wore such masks not to disguise himself but to find himself; but the practice explains, in some sense justifies, the irritation he provoked.

Eikhenbaum did not of course write a biography primarily concerned with such questions of personality. What he did is represented at its best, I think, by the chapters in *Tolstoy in the Sixties* on Auerbach and Riehl, two German Populists well-known in Russia in the 1850s. What Eikhenbaum does is not so much show us that they were important to Tolstoy—though they were—as show us that they are important to us. When we set them next to Tolstoy, we understand him better.

Berthold Auerbach was a Jewish writer involved in liberal politics in the 1840s whose first book was a novel-

ized biography of Spinoza. After 1848 he began to write stories and novels about village life, and about education and gradual growth as an alternative to revolutionary politics. His fiction was rather sentimental, and fell out of favor in the later nineteenth century, but at least in the novel that most influenced Tolstoy, *A New Life*, he is genuinely interesting even now.

This is the story of a liberal aristocrat, proscribed for his part in the 1848 revolution, who changes identities with a



LEO TOLSTOY BY VINT LAWRENCE FOR THE NEW REPUBLIC

portrays himself in *War and Peace* and *Anna Karenina* as a Rousseau figure—all broad, sensual, naive, good nature, intellectually incoherent but spiritually aspiring, above all ardent and benevolent, full of good feeling. But there is evidence, in his diaries and in the accounts of other people, that he was more of a Voltaire, a total skeptic, with a harsh and irritable temperament, and a terrible mocking eye that paralyzed, for instance, Turgenev. Prince Bolkonsky in *War and Peace* is described as being

village schoolmaster named Eugen Baumann. The novel describes his regeneration of the school, the village, and himself, and at its end he marries a village girl. It will be obvious why this story appealed to Tolstoy, who in 1860 both wanted to teach school and to escape the pressure of the intelligentsia to make everyone a revolutionary. Moreover, he was at that time falling in love with his peasant mistress, and beginning to dream of himself becoming a peasant. (He had a literal dream of himself wearing peasant clothes, and his mother failing to recognize him.) He was even writing differently, using peasant language, composing peasant idylls in the Auerbach vein, presenting no educated characters. So it is no wonder that when he went to Germany he made his way to Auerbach's house and sent up the message that Eugen Baumann had arrived. He *was* Eugen Baumann.

The case of Wilhelm Riehl is in some ways even more interesting. Riehl was a professor at the University of Munich, who wrote some books of social theory, which Tolstoy declared in a diary note to be as revolutionary in their genre as Luther's ideas were in religion. Riehl was, however, counterrevolutionary, in that he advocated a return to something like the estate structure of feudal Europe. He wanted the social classes to see each other as mutually complementary, not mutually competitive; which implied, of course, giving up the ideal of social mobility and progress:

Let the man of the middle class again desire to be a man of the middle class, the landholder to be a landholder. . . . Let each person proudly and joyfully acknowledge his membership in the social circle to which he belongs by his birth, upbringing, education, and calling. . . .

One of the reasons this is so interesting is that this is a caste theory of society, and Tolstoy's attraction to it prefigures his attraction to India and China (as opposite to the West) at the end of his life. It marks yet another link between himself and his greatest disciple, Gandhi, who also defended the caste system as superior to the West's class system. And this was in a sense clear even in

Russia in the 1850s, where Riehl's opponents described his doctrine as Oriental or Buddhist.

Russians of course use "Oriental" rather differently from the way we do, because for them Orientalism is simply the opposite of Westernism, modernism, Europeanism. Nevertheless, it is striking that recurrently, through all the seemingly divergent phases of his career, Tolstoy should have been reproached with being Oriental. (Partly it is striking because Tolstoy, like Gandhi, was remarkably uninterested in the occult, the exotic, and even the mystical in its picturesqueness. They were both remarkably rationalist, moralist, and Puritan—children of seventeenth-century English Dissent.)

This, then, is what Eikhenbaum does so well. He paints an intellectual map on which we can see Tolstoy like a chameleon, who assumed some patch of color from one area of background, other colors from another, and gradually we learn to see his own outlines and movements. And Eikhenbaum's understanding of the life of the mind is generous enough to escape the corsetries of "the history of ideas"; he knows that the way people talked about horses in the 1840s, and the way they used horse metaphors, is as much a part of intellectual life as the Great Chain of Being, and more so than the state of Aristotelian studies.

HOWEVER, he was concerned to do something more than that. Showing what Tolstoy took from the current of ideas around him, he also shows the continuities between literature and nonliterature. But he wants to show also the discontinuities—the "literariness of literature." This was the essence of Russian Formalism, as it is the essence of Formalism's successor, French Structuralism. And part of the enterprise of discovering the literariness of Tolstoy was to explode the author's claims to be something more than a man of letters. For the Formalists, Tolstoy was a giant lying across their path, whom they had to move.

But it is not quite right to say that Tolstoy lay across their literary path, which suggests that their formalism was predetermined, and that he fell accidentally athwart it. The truth is rather that that formalism was their means, and the attack on Tolstoy was what was predetermined. These men were adolescents when Tolstoy died, and he had

been a great name for generations. He was indeed more than just himself; he was the last of the great nineteenth-century Russian writers. And beyond that, he was the great moralist, the martyr and saint of Christianity, who had rejected literature after having conquered it. For all these reasons, he was the natural enemy, the authority figure, the doom hanging over these young men, who were determined to build a whole new intellectual and artistic movement in Russia. Formalism was their way of interpreting Tolstoy away from his own terms of self-presentation, into their terms, assimilating him into their theory, consuming and digesting him.

AND THERE is a striking likeness between the origins of Formalism and those of Structuralism. The Tolstoy-like figure in France in 1950 was Jean-Paul Sartre, a hero of writing and thinking but also of the Resistance, the national crisis; who had in *What Is Literature?* (comparable with Tolstoy's *What Is Art?* of fifty years earlier) set firm limits to the value of literature, fixed chains of duty to the wings of the imagination. In response to that enchainment, the Structuralists, like the Formalists before them, went into a frenzy of theory-spinning, in order, like a spider, to enwrap their enemy in a cocoon of interpretation. The enemy was not named as Sartre—it was rather the vulgar error of connecting literature with life; but then in the Russian case it was not Tolstoy who was overtly attacked, but the literariness of literature that was asserted.

Sartrean existentialism was as strenuous a Puritanism, an exorcism of the magic of the mind-at-play, as Tolstoyan Christianity had been. Formalism and Structuralism are parade-ground drills for the troops defending the freedoms of the mind, the freedom to speculate and imagine, the liberal imagination and the liberal education. Eikhenbaum's books can therefore help us to understand not only Tolstoy, but the contemporary literary scene. They remind us, for instance, that the Structuralists have not yet made any full-length studies of their enemy-precursors—though Sartre himself wrote Eikhenbaum-like books about Flaubert and Baudelaire.

So it is a considerable service that Ardis has done us, in translating and publishing these books. Unfortunately,

COMING:
Frank Kermode
On Northrop Frye.

both the translating and the editing are so sloppy as to impede the reader at points. It merely irritates to read of Ma-cauley and Montalambert, but to get one-word references to Lewis or Bred-don is likely to be positively mystifying. (The persons meant are G. H. Lewes and Miss Braddon, the Victorian novelist). Indeed, reader irritation, however low a form of animal life, is one an editor must deal with. "I am preceeding here form [sic] a premise in the light of which the question of borrowing or influence becomes insignificant in principle." Sentences like this are the equivalent of persistent smudges on the page. And when "at least" is printed as "at last" and "I hate" as "I have" the reader sees a conceptual blur which he can clear up only if he slows down, goes back, and figures out what went wrong.

It sounds picayune to go on about this sort of thing, but I must make the point that it happens often enough to matter. When we are told that German Populism was "detached from" Russian nihilism, we have to guess that it was "different from" or "diverged from." When we are told of Tolstoy's "merits in the analysis of the child's will," what seems to be meant is "his skill in analyzing a child's will." And in a summary of a story, when we are told "Andryusha went away and his boots got lost," what seems to have happened is that he slipped away and left his boots behind. It is easy to understand how these mistakes occur, and no doubt great care was taken; but since I am here as consumers' representative, I have to protest.

In any case, the books survive these mishaps. They are in English what they were in Russian, and any lover of Tolstoy must be glad to get them.

MARTIN GREEN

Martin Green, professor of English at Tufts University, is the author of *The Challenge of the Mahatmas* (Basic), among other books.

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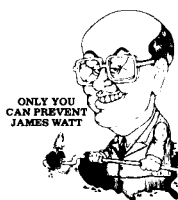


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NEW YORK DIARIST

My Dinner With Five Silverware Salesmen

I REALLY USED TO BELIEVE in those Virginia Slims ads—the ones that say, “You’ve come a long way, baby!” Since a certain recent evening, however, I haven’t been so sure. We may not have come much farther than half a block from Grand Central. The Grand Central area can grow eerily quiet on a Sunday; the whole neighborhood seems to shut down. That night, even though it was only 8 p.m., the streets were so empty that you could almost believe that nerve gas had been sprayed, silencing anything that breathed. I must confess that I ran, rather than walked, to the nearest restaurant (I was in from out of town, staying at the Yale Club, whose dining facilities were closed). It was on 44th Street. I hurried inside, my heart beating rapidly, and walked down the long, wide corridor to the hostess’s desk. She glanced up at me, and I asked for a table for one. She stared, her mascara-ringed eyes bulging, her lipsticked mouth forming an astonished “Oh.” It was the look I would have expected to see on her face if I’d just run in there with a smoking gun in my hand, gasping: “Here, I’ve just killed someone. He’s out on the sidewalk. Get the police!” Her reaction took me aback—so much that I literally stepped back. In doing so, I gave way to a couple who had just come in behind me. “Wait,” the hostess said to me, taking a sheaf of menus from her stand. She led them into the dining room, and then returned. In the interim, she seemed to have undergone a plastic drenching, like the wax spray you give your auto during a car wash; her face and entire body posture were set in a smiling, unmoving neutrality. She asked me, blandly, whether or not I had a reservation. “Well, no,” I answered uncomfortably. “But—don’t you just have a small table for one?” “Wait,” she said again. This time she went down the long entryway toward the front door, and disappeared into a room off to the right. I stood there, shamefaced, like a pupil whose teacher has gone off to complain to the principal. In the meantime, the restaurant door kept opening and shutting, and a line of new patrons was forming. Where had they come from? I wondered. Cabs? The world outside had been so dark and deserted. I realized

that I was the object of curious glances, for I wasn’t quite in the line, and I tried to avoid meeting anyone’s eyes. I found it disquieting, waiting for the hostess’s return. But when I saw her, her unchanged expression told me that a decision had been made, and that it was not in my favor. “I’m sorry,” she said, with brisk impersonality, “but we really can’t seat you if you haven’t any reservation.” “Listen,” I said reasonably, “there isn’t any place around here that’s open, is there? Everything looks dark.” Her only response was a shrug. “Do you know of a place that is open?” I appealed to her. She shrugged again: “There’s Arthur Treacher’s, over on 43rd, or maybe it’s 42nd. . . .” But, brandishing her menus, she was beckoning to a party of four. “On 42nd?” I cried after her, dismayed—I, who had run around the relatively safe and respectable corner of 44th and Vanderbilt. “That’s the only one I know of,” she turned back to say, as she led her party into the dining room.

“SHE WON’T SEAT YOU because you’re a woman alone,” murmured a voice close to my ear. I turned to see a pleasantly balding man in a tan business suit. He touched my elbow and said kindly, “You come with us.” I followed him. I was now one of a large group led by the hostess, and I didn’t realize, until we were seated, who “us” was. “Us,” as it turned out, was a group of five wholesale silverware salesmen. The hostess, who had treated me like an escaped leper a few moments earlier, now seated me with a great show of friendliness, handed me my menu, and gave me a warm smile. I looked around the dining room, and saw at least five small tables that were empty. “Did you really refuse to seat me because I am a woman alone?” I asked, touching the sleeve of her dress, indicating those empty tables with a nod. “Oh,” she answered, blinking her false eyelashes, “those are set for two.” “Yes,” I said, “but usually, when one person comes in, they take a setting away.” She blinked again, smiled with professional warmth: “We find it doesn’t pay. And besides, those tables are all reserved . . . for two.” I contemplated making a scene; but felt it would be rude to my knights in shining

armor, or wholesale silver, in this instance. My hosts were polite. They were friendly. Nevertheless there was something absurd about the situation: I’d been forced to have supper with five unknown silverware salesmen because I couldn’t be seated in this restaurant on my own. Was this really New York City, the center of the women’s liberation movement? Betty Friedan, I silently cried, where are you? Gloria Steinem, *au secours!* Was this really happening a half-block away from Grand Central? The salesmen paid for my dinner. I contemplated making a scene about that, too, but they made it clear that any other arrangement would have been insulting.

THE FOLLOWING MORNING, on the telephone, I said to my husband: “You’ll never be able to guess whom I had dinner with last night!” We pondered the hostess’s motivations: my husband believed she’d refused to seat me because she thought I was a lady of the night. “A middle-aged mother of three?” I responded incredulously. “In a white wool suit with a mandarin collar?” Was it possible that because of the recent styles—suburban matrons dressing in low-cut blouses and skirts with high slits—that the real hookers had taken to dressing up as suburban matrons? Or is there a “no woman alone” rule that is so inflexible that even if I’d walked in there wearing a nun’s habit I could not have been seated without the aid of my salesmen/protectors?

I’LL NEVER KNOW. Nor will I know what role geography—the restaurant’s proximity to the sleazy Times Square area—may have played in making unaccompanied females suspicious. What I do believe, though, is that a solitary male diner would have been seated without a raised eyebrow, and allowed to eat his dinner in peace. He wouldn’t have needed the assistance of five traveling saleswomen in order to render himself an acceptable patron.

MAGGIE SCARF

Maggie Scarf is the author of *Unfinished Business: Pressure Points in the Lives of Women* (Ballantine).

Women on the Bench

A woman named Esther Morris, a non-lawyer, became the first of her sex to join the judiciary in this country when the governor of the Territory of Wyoming appointed her a part-time justice of the peace in a place called South Pass Mining Camp. The year was 1870.

Fully half a century elapsed before a woman was elected, rather than appointed, to a judicial position other than justice of the peace. Up until the last decade, only a handful of women had ever served as judges.

No longer are women a token presence on the bench. They are now being elected or appointed to judgeships in increasing numbers. Albeit in a minority that's still disappointingly small, they are a significant and growing force in both the state and federal judiciaries. The most prominent, of course, is Sandra Day O'Connor, who joined the U.S. Supreme Court in 1981.

More and more women will move into judgeships in the years ahead as their ranks in the law expand. In 1910 only 1% of all the lawyers in this country were women. Some 60 years later, the proportion was still below 3%. But by 1980 about 13% — nearly 59,000 — of the lawyers in the U.S. were women. If current trends continue, one-third of our lawyers will be women by the year 2000. An ever-larger pool is being formed to draw on for female judges.

What kind of women don judicial robes? *Judicature*, the journal of the American Judicature Society, recently published a profile based on returns from questionnaires distributed to all 549 female lawyers who were sitting as state court judges in late 1980.

The typical woman jurist at the time was 48 years old, white, a Democrat of moder-

ate to liberal bent, who had served on the bench for six years and had been a lawyer for 13. After attending a private law school, she practiced with a small law firm. Most likely she first became a judge by filling an unexpired term through a gubernatorial appointment on recommendation of a nominating commission. She went on to win additional tenure by popular election.

Debate in some legal and affirmative action circles revolves around the more effective means of selection — appointment or election — for placing more women on the bench. Many organizations representing women's interests prefer electoral over appointive selection. Yet most women judges themselves believe an appointive system not only results in more women judges, but also produces a higher-quality judiciary.

The last decade has brought marked progress in women's presence on the bench. In 1971 fewer than 200 women lawyers were judges in state courts. By 1980 the number had nearly tripled. That's in addition to the numerous women non-lawyers sitting as limited-jurisdiction judges.

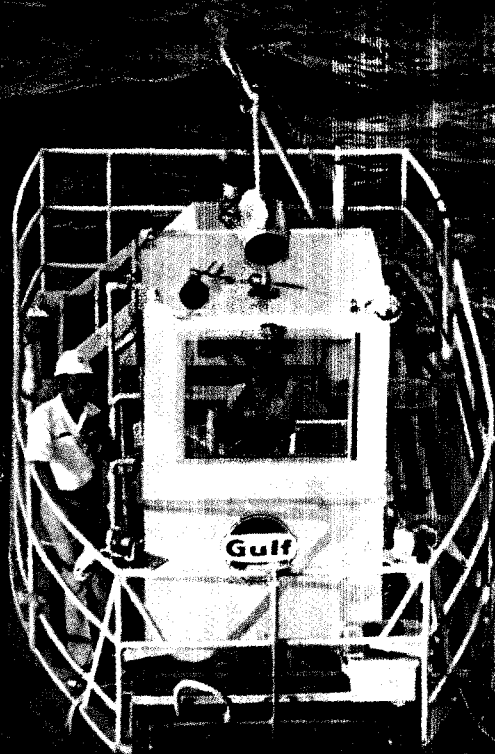
Until the late '70s, only eight women had served as federal district or appeals judges in the nation's entire history. President Carter alone appointed 41. President Reagan then named the first woman to the Supreme Court.

It took generations of effort to break down male bastions in the courtroom. Finally, women are achieving rightful prominence and participation in America's judicature. They are adding dimension and texture to deliberations and decisions. Their role, their contributions, and their influence can be expected to grow in the years to come.



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